

EXHIBIT 7

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In Re: Chapter 11

Case No.

01-01139 JKF

W.R. Grace & Co., et al.,

Debtors. (Jointly
Administered)

X

* * * CONFIDENTIAL * * *

— — —
May 13, 2009

— — —
DEPOSITION of RICHARD FINKE, held
at the offices of Kirkland & Ellis, 655
Fifteenth Street, N.W., Washington, DC,
commencing at 9:32 A.M., on the above
date, before Lisa Lynch, a Registered
Merit Reporter, New Jersey Certified Court
Reporter, License No. XI00825, and
Certified Realtime Reporter

— — —
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16 EXHIBITS
 17 EXHIBIT DESCRIPTION ID
 18 Exhibit 1 Notice of Deposition of 16
 19 Debtors Pursuant to Rule
 20 30(b)(6)
 21 Exhibit 2 Document entitled W.R. 16
 22 Grace/Confirmation Hearing
 23 30(b)(6) Deposition Notice
 24 Exhibit 3 SEC Form 8-K 25
 Exhibit 4 Exhibit 6 to Exhibit Book, 41
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 Exhibit 5 Exhibit 19 to Exhibit 53
 Book, Retained Causes of

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1 EXHIBITS
 2 EXHIBIT DESCRIPTION ID
 3 Exhibit 6 Exhibit 2 to Exhibit Book, 55
 4 Asbestos PI Trust Agreement
 5 Exhibit 7 Exhibit 4 to Exhibit Book, 55
 6 Trust Distribution
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 8 Exhibit 8 First Amended Joint Plan 70
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 10 Exhibit 9 Exhibit 5 to Exhibit Book, 92
 11 Schedule of Settled
 12 Asbestos Insurers Entitled
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 14 Exhibit Settlement Agreement 98
 15 10 Bates stamped OB 1 through
 16 33
 17 Exhibit Travelers/Allstate 135
 18 11 30(b)(6) deposition notice
 19 Exhibit Travelers 30(b)(6) 136
 20 12 supplemental deposition
 21 notice
 22 Exhibit Grace/Aetna Asbestos 149
 23 13 Settlement Agreement dated
 24 May 22, 1996
 Exhibit Exhibit 25 to Exhibit 178
 14 Book, CMO for Class 7A
 Asbestos PD Claims

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DEPOSITION SUPPORT INDEX

Direction to Witness Not To Answer

Page Line Page Line
30 2 37 12
37 17 39 8
39 15 369 1

Request For Production of Documents

Page Line Page Line
(None)

Stipulations

Page Line Page Line
(None)

Questions Marked

Page Line Page Line
(None)

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MS. HARDING: I just wanted to make a statement on the record that the debtors have designated Mr. Finke to answer certain appropriate questions related to certain 30(b)(6) topics.

As we've indicated, Mr. Finke will be available for seven hours today. We've also designated Mr. Hughes and Mr. LaForce to answer other 30(b)(6) topic questions. We are hoping and expecting that the parties seeking to ask questions have coordinated so that we can end in seven hours and we think it's a reasonable expectation.

The debtors have reviewed the deposition of Mr. Lockwood and agree, in essence, with Mr. Lockwood's answers with respect to how the Plan operates and so we think and are very hopeful that there will not be a need to go

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RICHARD FINKE,

having been sworn by the Notary Public of the States of New York and New Jersey, was examined and testified as follows:

EXAMINATION BY

MR. BROWN:

Q. Good morning, Mr. Finke.

My name is Michael Brown. I represent One Beacon, Seaton, Geico and Republic for the objecting insurance companies in the Grace bankruptcy. You've been deposed several times before, correct?

A. Yes, I have.

Q. Okay. So we can dispense with the formalities of what a deposition's all about?

A. Yes, we can.

Q. Okay.

MS. HARDING: Michael, would you mind if I made a quick statement on the record?

MR. BROWN: Sure.

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further than seven hours to get to the appropriate inquiry as to how the Plan operates. So I just wanted to get that on the record.

MR. BROWN: Okay. Actually, that's helpful. Maybe I could follow up with a question for Mr. Finke.

Q. Mr. Finke, have you reviewed Mr. Lockwood's Rule 30(b)(6) deposition transcript?

A. Yes, I have.

Q. Okay. Is there anything that you read in that transcript that you disagreed with?

A. No, nothing of substance.

Q. Okay. How about anything not of substance?

A. There are a few occasions, I think, where I either would have worded something differently or where I think Mr. Lockwood may have been either in error -- might have been in error depending on whether he was -- depending on the

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1 context. Let me give you one example of
2 that.

3 **Q. Sure.**

4 A. He, I think, made a
5 statement at one point where he equated
6 asbestos in place coverage or insurance
7 coverage with the asbestos insurance
8 reimbursement agreements. I believe he
9 said he thought they were the same thing,
10 and perhaps in substance or in concept
11 they are. I'm not an insurance lawyer,
12 but I know that under the Plan
13 definitionally the definition of asbestos
14 (sic) in place insurance coverage
15 specifically excludes asbestos
16 reimbursement agreements from the
17 definition.

18 **Q. Okay.**

19 A. Which would suggest they
20 are not the same.

21 **Q. All right. I'm going to**
22 **suggest that Miss Alcabes, or one of the**
23 **people whose issue that is, may want to**
1 **follow up with you on that point.**

Page 15

1 A. Sure.

2 **Q. But let's pass on that.**

3 **Other than what you've just**
4 **described, is there anything else in Mr.**
5 **Lockwood's deposition transcript that the**
6 **debtors disagreed with?**

7 A. Nothing that comes to
8 mind.

9 MR. BROWN: Okay. Let me
10 have the first exhibit marked, and
11 can we go off the record for a
12 second.

13 (Off the record.)

14 (Notice of Deposition of
15 Debtors Pursuant to Rule
16 30(b)(6) marked for identification
17 as Exhibit Finke-1.)

18 (Document entitled W.R.
19 Grace/Confirmation Hearing 30(b)(6)
20 Deposition Notice marked for
21 identification as Exhibit
22 Finke-2.)

23 BY MR. BROWN:

24 **Q. Mr. Finke, I'm going to put**

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1 **before you two exhibits marked -- we're**
2 **using the term Finke 30(b)(6) 1 and Finke**
3 **30(b)(6) 2. For shorthand during the**
4 **deposition I'll just refer to them as**
5 **Finke-1 and Finke-2. Could you identify**
6 **Finke-1 for me, please?**

7 A. It is a Notice of
8 Deposition of Debtors Pursuant to Rule
9 30(b)(6) served by One Beacon, Seaton,
10 Geico and Columbia.

11 **Q. Going forward, it would be**
12 **more accurate to refer to Columbia as**
13 **Republic. I know it says Columbia there.**
14 **The date on here is April 28th, 2009 and**
15 **the site is Drinker Biddle & Reath's**
16 **offices but we obviously changed those by**
17 **agreement after this was scheduled.**

18 **Is it your understanding that**
19 **you're appearing here today in response to**
20 **this Rule 30(b)(6) notice?**

21 A. Yes.

22 **Q. And there were several**
23 **others served on you as well?**

24 A. Correct.

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1 **Q. Correct, all right.**

2 **If you look at what's been marked**
3 **as Finke-2, can you identify that for**
4 **me?**

5 A. It is a chart 18 pages long
6 entitled W.R. Grace/Confirmation Hearing
7 30(b)(6) Deposition Notice Witness
8 Designations.

9 **Q. Okay. And is it your**
10 **understanding that this document was**
11 **prepared by your counsel?**

12 A. Yes, that's my
13 understanding.

14 **Q. And have you seen it before**
15 **today?**

16 A. Yes.

17 **Q. Okay. And am I correct**
18 **that it basically lists all the various**
19 **topics from all the 30(b)(6) notices that**
20 **were served on Grace and then designates**
21 **one of, I believe, three individuals to**
22 **testify about the various topics?**

23 A. I would agree that it
24 includes all 30(b)(6) notices that have

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1 been served as of the time that the chart
2 was created.

3 MS. HARDING: And I just
4 want to just object to the extent
5 that Exhibit 2 does not include the
6 cover letter that accompanied
7 Attachment A which also set out our
8 objections with respect to the
9 30(b)(6) notices.

10 I have no objection to him
11 answering questions about it; I
12 just wanted to make clear on the
13 record that there was a cover
14 letter that accompanied that.

15 MR. COHN: Which I actually
16 have but I didn't --

17 MR. BROWN: Can we just go
18 off the record a second?
19 (Off the record.)

20 BY MR. BROWN:

21 Q. Mr. Finke, when we were
22 just off the record, we were discussing
23 another document, a copy of which I do not
1 have and apparently no one else does,

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1 the road of having all the people
2 in this room ask questions about
3 negotiations and draft documents
4 only to draw objections and
5 instructions not to answer.

6 Can we have that same
7 arrangement for this deposition
8 with the understanding that if
9 there subsequently is a ruling by a
10 court that entitles us to discovery
11 on those subjects that the witness
12 would be recalled for that purpose?

13 MS. HARDING: Subject to
14 Judge Fitzgerald ordering the
15 debtors to submit and answer
16 questions to those, then we can
17 have that agreement, yes.

18 MR. COHN: Just for my
19 clarity, in all of these
20 depositions we're talking about the
21 relevance objection instruction
22 that was asserted at Lockwood's
23 deposition that I clarified on the
24 record?

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1 which was described as being objections to
2 the various 30(b)(6) notices that were
3 served on the debtors. Are you familiar
4 with the document that I'm describing?

5 A. No, I don't think I am.

6 Q. Okay. In any event, you're
7 appearing here today pursuant to the Rule
8 30(b)(6) notices for the topics for which
9 you've been designated on Finke-2 and
10 subject to whatever objections were
11 asserted by the debtors, correct?

12 A. Correct.

13 MR. BROWN: Okay. We don't
14 have a document, but my
15 recollection of the objections was
16 that there was an objection to this
17 witness testifying about any Plan
18 negotiations or draft Plan
19 documents. Is that right, Barbara?

20 MS. HARDING: That's
21 correct.

22 MR. BROWN: Okay. At Mr.
23 Lockwood's deposition we reached an
24 agreement that we wouldn't go down

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1 MR. BROWN: That is
2 correct, and I believe the document
3 that we don't have, the objections
4 to the 30(b)(6)'s, if I recall
5 correctly, had a paragraph setting
6 forth that objection and a number
7 of different decisions by Judge
8 Fitzgerald in other cases.

9 MS. HARDING: That's
10 correct, and it relates -- our
11 objection relates to the -- to the
12 relevance to the extent that the
13 questions seek information relating
14 to settlement negotiations,
15 drafting --

16 MR. COHN: The
17 clarification that I thought that I
18 made earlier that I'll make clear
19 is still the clarification that
20 this is a relevance objection, or
21 are you asserting a privilege?

22 MS. HARDING: Well, I
23 disagree with that
24 characterization. The objection is

Page 22

1 set out in our official objection
2 to the 30(b)(6) notices which is
3 filed on record. It includes
4 attorney-client privilege, it
5 includes work product, it includes
6 joint interest privilege. I don't
7 have it in front of me so I can't
8 recite them, but it includes much
9 more than relevance so --

10 MR. COHN: Just to be
11 clear, because --

12 MS. HARDING: With respect
13 to negotiations, you can -- there
14 will be other objections other than
15 just relevance, so --

16 MR. COHN: Well, but my
17 understanding was there was a
18 blanket instruction not to answer
19 without any attempt to parse
20 through potential privilege
21 objections on the basis of a
22 blanket relevance objection. Am I
23 missing something?

1 MS. HARDING: I don't

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1 disagree with that, but I think
2 that in light of the blanket
3 relevance objection with respect to
4 negotiations that there was that
5 agreement reached. That doesn't
6 mean that with respect to
7 everything that might fall under
8 negotiations that there wouldn't be
9 other objections as well.

10 MR. COHN: I'm not
11 suggesting that --

12 MS. HARDING: Okay.

13 MR. COHN: -- if there's a
14 valid privilege objection here that
15 you've somehow waived your right to
16 assert that by asserting a blanket
17 objection, but my understanding is
18 we didn't start down that path
19 because there was a relevance
20 objection.

1 I'm sorry, Michael.

22 MR. BROWN: That's all
23 right. Suffice it to say that if
24 we ask questions concerning the

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1 negotiations of the Plan or the
2 draft Plan documents that that will
3 draw an instruction not to
4 answer.

5 MS. HARDING: That's
6 correct.

7 MR. BROWN: Okay, thank
8 you.

9 (SEC Form 8-K marked for
10 identification as Exhibit
11 Finke-3.)

12 BY MR. BROWN:

13 **Q. Mr. Finke, you have before**
14 **you now another document that has been**
15 **marked for this deposition as Finke-3.**
16 **You'll note that there is a prior**
17 **deposition exhibit number on there, Number**
18 **12, and that was from your deposition as a**
19 **fact witness. Do you see that?**

20 A. Yes, I do.

21 **Q. We obviously had some**
22 **questioning about this at your prior**
23 **deposition but that was not in your**
24 **capacity as a designee for Grace and I**

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1 **have some additional questions. So the**
2 **first one is: Can you identify the**
3 **document?**

4 A. Yes. This is a Form 8-K
5 report that was filed by W.R. Grace with
6 the Securities and Exchange Commission on
7 April 6, 2008.

8 **Q. And the document has a**
9 **couple of attachments, correct?**

10 A. Yes.

11 **Q. What are they?**

12 A. Let's see. The first
13 attachment is, in essence, a press release
14 in which Grace announced the -- its
15 settlement of asbestos personal injury
16 claims in the context of the Chapter 11
17 cases and the second attachment is a term
18 sheet for resolution of asbestos personal
19 injury claims.

20 **Q. And was the press release**
21 **actually issued?**

22 A. I do not know.

23 **Q. Okay. If it was issued,**
24 **was it issued on or about the time that**

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1 **this document was filed, to your**
2 **knowledge?**

3 A. Yes.

4 **Q. Let's focus on the term**
5 **sheet. Who are the parties to the term**
6 **sheet?**

7 A. The debtors, the Official
8 Equity Security Committee, the Official
9 Committee of Personal Injury Claimants and
10 the Future Claimants' Representative.

11 **Q. And what is the date of the**
12 **term sheet?**

13 A. April 6, 2008.

14 **Q. I want you to focus now on**
15 **the period -- for purposes of my next**
16 **series of questions -- the period prior to**
17 **April 6, 2008. And am I correct that**
18 **prior to April 6, 2008 that Grace did not**
19 **consult with any of its insurers**
20 **concerning the terms that appear in this**
21 **term sheet?**

22 MS. HARDING: I'm going to
23 object to the extent that it seems
1 to me that this is going right into

1 we're here to do that.

2 We're not here to talk
3 about and have the witness testify
4 about how it was negotiated, how it
5 came about, the prior drafts, who
6 was consulted, who wasn't
7 consulted, and all that. I don't
8 think that's the proper scope of
9 this deposition.

10 MR. BROWN: I'm not asking
11 who was consulted. I'm asking him
12 whether the insurers -- I'm asking
13 him to affirm that the insurers
14 were not consulted.

15 MS. HARDING: Right. But
16 the problem with that is if we
17 answer that question, then we have
18 opened the door to answering that
19 question with respect to any party
20 and I think that that's not the
21 proper subject of this
22 deposition.

23 MR. BROWN: I can assure
24 you the only one I'm going to ask

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1 the issue of negotiations and
2 settlement negotiations with
3 respect to the Plan. I thought we
4 weren't going to go there.

5 MR. COHN: I think there
6 was no -- if there was no contact,
7 how are we going into that?

8 MR. BROWN: Yeah, we ought
9 to see what his answer is. I'm not
10 asking him about negotiations with
11 the parties that signed the term
12 sheet. I'm asking about whether
13 Grace consulted with any of its
14 insurers concerning the terms of
15 the term sheet prior to executing
16 it.

17 MS. HARDING: First of all,
18 I'm going to object. I think that
19 the -- this is not a topic of the
20 30(b)(6) notice and we're prepared
21 to answer questions about how the
22 Plan operates. I think that that's
23 what Judge Fitzgerald would
24 instruct the debtors to do and

1 about is the insurers.

2 MS. HARDING: Well, I
3 understand that you are, but I
4 don't want to spend any of the time
5 of the seven hours talking about
6 any of the negotiations or what led
7 up to the drafting of the document.
8 We didn't agree to that. It wasn't
9 asked for in the 30(b)(6) topics
10 with respect to how the term sheet
11 came about and so I think that
12 we've got an agreement.

13 If you all want to seek an
14 order compelling us to answer those
15 kinds of questions, then I think
16 you should do that. Otherwise,
17 we're here to talk about how the
18 Plan operates. So --

19 MR. BROWN: I thought you
20 just --

21 MS. HARDING: That's what
22 he's here to answer questions
23 about.

24 MR. BROWN: Are you

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1 instructing him not to answer?

2 MS. HARDING: I'm
3 instructing him not to answer
4 because I think it leads into a
5 series of questions that we all
6 have already agreed is not proper
7 under the current law.

8 MR. COHN: Oh, wait, wait,
9 wait, wait, wait.

10 MR. BROWN: I'm not
11 sure --

12 MS. HARDING: Actually, I
13 understand that you don't agree
14 with the law, but we've agreed for
15 purposes of this deposition that we
16 weren't going to do that.

17 MR. BROWN: I don't know
18 that we agreed to any such thing.
19 I asked the same series of
20 questions of Mr. Lockwood. I don't
21 know if you were at his deposition
22 or not --

23 MS. HARDING: I was.

1 MR. BROWN: -- but he

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1 relevance?

2 MS. HARDING: I think
3 that's an appropriate scope of the
4 objection.

5 MR. COHN: On the basis of
6 relevance?

7 MS. HARDING: On the basis
8 of all of the objections that were
9 stated in our objection to the
10 30(b)(6) notice --

11 MR. COHN: No, I want you
12 to state on the record --

13 MS. HARDING: Let me
14 finish.

15 MR. COHN: -- here and now
16 what the basis for a yes or no
17 question of whether or not people
18 were consulted. If there was no
19 communication, there's no arguable
20 privilege and I want the basis now
21 because I think we are going to
22 litigate this.

23 MS. HARDING: Well, I
24 think --

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1 answered those questions and he
2 left open in his answers about
3 whether Grace had discussed with
4 its insurers these topics and
5 that's why I'm asking these
6 questions. It was perfectly fine
7 when I asked them of Mr. Lockwood;
8 he answered them and so should this
9 witness.

10 MS. HARDING: Well, I
11 believe that I objected and I
12 wasn't the person defending Mr.
13 Lockwood. And Mr. Lockwood --
14 that's between him and his counsel.
15 I'm Mr. Finke's counsel. I'm
16 instructing Mr. Finke not to answer
17 questions relating to how the
18 settlement -- how the term sheet,
19 the Plan or any of the documents
20 related to it were drafted or put
21 together and who was consulted and
22 who wasn't consulted and how that
23 came about.

24 MR. COHN: On the basis of

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1 MR. BROWN: I think I have
2 the floor on this, but thank you,
3 Jack.

4 I think we have a
5 disconnect between what constitutes
6 negotiations. I'm not asking him
7 about how this was negotiated
8 between these parties. I
9 understand your position on that.
10 I'm simply asking whether Grace
11 consulted with its insurers with
12 regard to any term that appears in
13 the term sheet prior to executing
14 it on April 6, 2008. I don't think
15 that gets into negotiations at all.
16 In point of fact, I suspect he's
17 going to say no, in which case it
18 doesn't involve negotiations at
19 all.

20 MS. HARDING: Well, I
21 suggest this: I think that the
22 question "did you negotiate with
23 anyone" gets into that question.

24 MR. BROWN: That wasn't the

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1 question.

2 MS. HARDING: Well, by
3 asking him -- I think it does. I
4 think we disagree about that. I
5 think why don't we move forward.
6 At a break I'm happy to talk about
7 it further but right now I'm
8 instructing him not to answer the
9 questions.

10 MR. BROWN: Well, I'll ask
11 a series --

12 MR. LEWIS: Hold on just a
13 second. My name is Tom Lewis. I
14 represent the Libby claimants, and
15 I've never seen a deposition like
16 this. I'm in practice 30 some
17 years.

18 I thought the examiner
19 makes a question and if there's an
20 objection, the objection is stated
21 clearly as to that particular
22 question and we don't sit here and
23 debate for 15 or 20 minutes whether
1 the question should be answered.

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1 I think we should proceed
2 in a proper question and answer
3 proceeding here or we're never
4 going to get done and we're going
5 to have an impossible record.

6 So I object to the form of
7 the examination and the failure of
8 counsel for this witness to make a
9 proper objection on the record of
10 this deposition and I join in the
11 objection that this gentleman to my
12 right --

13 MR. COHN: Mr. Cohn.

14 MR. LEWIS: Thank you.

15 MS. HARDING: I think I've
16 stated the objection very clearly
17 and I instruct the witness not to
18 answer.

19 MR. LEWIS: I disagree with
20 that. I have not heard an
21 objection on the record of this
22 deposition.

23 MS. HARDING: The objection
24 is relevance. It's not relevant

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1 under 408. The objection
2 relates -- the rules of the
3 bankruptcy law do not require the
4 debtors to answer questions
5 relating to Plan negotiations and
6 settlement with respect to their
7 Plan and attorney-client privilege,
8 work product and joint interest
9 privilege.

10 MR. BROWN: Okay.

11 MR. COHN: Wait, I'm sorry.
12 I don't mean to -- I would like to
13 know with whom you assert a common
14 interest exists.

15 MS. HARDING: You know
16 what? My objection's on the record
17 and I'm not stating any more. I've
18 instructed the witness not to
19 answer and I think we should move
20 forward.

21 MR. BROWN: I think we
22 should, too, and I'm going to say
23 for purposes of stating your
24 objections to this series of

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1 questions let's just use the
2 shorthand, you know, same as before
3 so that we don't have to repeat
4 it.

5 BY MR. BROWN:

6 **Q. Mr. Finke, I'm correct, am**
7 **I not, that prior to signing this term**
8 **sheet that we've been discussing that**
9 **Grace did not obtain the consent of any of**
10 **its insurers with respect to any of the**
11 **terms in the term sheet?**

12 MS. HARDING: Same
13 objection. Instruct the witness
14 not to answer.

15 **Q. Why did Grace exclude its**
16 **insurers?**

17 MS. HARDING: Same
18 objection. Instruct the witness
19 not to answer.

20 **Q. The initial Joint Plan, Mr.**
21 **Finke, was filed on September 19th, 2008,**
22 **correct?**

23 A. I believe that's correct.

24 **Q. Okay. And it included, did**

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1 it not, the initial version of the
2 Asbestos PI Trust agreement and the
3 Asbestos PI TDP?

4 MS. HARDING: I'm sorry,
5 Mike, can you repeat the question?
6 I'm sorry.

7 (The reporter reads the
8 pending question.)

9 MS. HARDING: And "it" was
10 the --

11 MR. BROWN: The Plan.

12 MS. HARDING: Thank you,
13 okay.

14 A. I don't recall which
15 documents were -- or exhibits were filed
16 with the Plan.

17 Q. Okay. Do you know whether
18 a press release was issued by Grace in
19 conjunction with the filing of the initial
20 Plan in September of 2008?

21 A. I don't recall.

22 Q. Am I correct that in the
23 period between April 6, 2008 and September
24 19th, 2008 that the Plan proponents were

1 one for counsel.

2 MS. HARDING: Thank you.

3 (Exhibit 6 to Exhibit Book,
4 Asbestos Insurance Transfer
5 Agreement, marked for
6 identification as Exhibit
7 Finke-4.)

8 BY MR. BROWN:

9 Q. Mr. Finke, you have before
10 you the document marked as Finke-4. Can
11 you identify the document for me,
12 please?

13 A. This is the proposed
14 asbestos transfer agreement also referred
15 to as Exhibit 6 to the Exhibit Book.

16 Q. And what is your
17 understanding as to what this document
18 accomplishes?

19 A. It is --

20 MS. HARDING: Object to
21 form but --

22 A. It is intended once it is
23 signed to transfer the asbestos insurance
24 rights to the Asbestos PI Trust.

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1 engaged in negotiating the terms of the
2 plan and drafting Plan documents?

3 A. Yes.

4 Q. Okay. In that time frame,
5 did Grace consult with any of its insurers
6 concerning the terms of the Joint Plan or
7 any of the Plan documents?

8 MS. HARDING: Same
9 objection. Instruct the witness
10 not to answer.

11 Q. In that time frame, did
12 Grace obtain the consent of any of its
13 insurers with respect to any of the terms
14 in the Plan or the Plan documents?

15 MS. HARDING: Same
16 objection. Instruct the witness
17 not to answer.

18 MR. BROWN: Okay. Let's
19 mark another exhibit. The next
20 document we're going to mark is
21 Exhibit 6 to the Exhibit Book which
22 is the asbestos insurance transfer
23 agreement, and by convention I
24 brought one copy to be marked and

1 Q. Okay. It has a -- it has a
2 few schedules. Look at Schedule 1, if you
3 will, and can you just identify what
4 Schedule 1 is?

5 A. Schedule 1 is a, I think,
6 20-page list of primary and excess
7 insurance policies that were or are
8 applicable to asbestos-related claims.

9 Q. And who is the insured
10 under those policies?

11 A. My understanding is that
12 the insured under the policies would be
13 one or more of the debtors in these
14 Chapter 11 cases. I don't recall if a
15 non-debtor affiliate would have been an
16 insured under any of these. I'd have to
17 check on that.

18 Q. By non-debtor affiliate,
19 who were you -- what entities or
20 individual are you thinking of?

21 A. Any Grace-affiliated entity
22 that is not a debtor.

23 Q. Okay. Who owns the
24 policies at this point?

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1 A. The debtors, or the -- I
2 should say the insurance contributors.

3 **Q. And that includes the**
4 **debtors?**

5 A. Debtors, and I believe the
6 non- -- I believe that the non-debtor
7 affiliates as well.

8 **Q. And I think they are**
9 **described somewhere. I think Mr. Lockwood**
10 **told us they were.**

11 A. Who are you referring to
12 when you say "they"?

13 **Q. The non-debtor affiliates.**

14 A. They are listed on an
15 exhibit.

16 **Q. You're right, there was**
17 **another exhibit that had that.**

18 A. The number of which I don't
19 recall offhand.

20 MS. ALCABES: Exhibit 16.

21 MR. BROWN: Oh, yes,

22 Exhibit 16.

23 **Q. Exhibit 16 to the Exhibit**
24 **Book?**

1 objections.

2 MR. LIESEMER: Object to
3 the form.

4 A. Again, I'm not an insurance
5 attorney but I believe -- since the
6 policies themselves are not being
7 assigned, I believe the ownership of the
8 policies does not change.

9 **Q. Are you familiar with the**
10 **basic responsibilities of an insured under**
11 **a general liability insurance policy?**

12 MR. LIESEMER: Object to
13 the form.

14 MS. HARDING: Object to the
15 form in terms of basic.

16 MR. BROWN: Well, let me
17 rephrase it.

18 **Q. Are you familiar with any**
19 **of the responsibilities of an insured**
20 **under a standard general liability**
21 **policy?**

22 MS. HARDING: Object to
23 form as to foundation but...

24 A. Yes.

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1 A. Correct.

2 MR. BROWN: Okay. I'm not
3 going to bother marking that.

4 **Q. If the Joint Plan is**
5 **confirmed and if the asbestos insurance**
6 **transfer agreement is executed as**
7 **contemplated by the Joint Plan, who are or**
8 **will be the insureds under the policies on**
9 **Schedule 1?**

10 MS. HARDING: Object to
11 form.

12 MR. LIESEMER: Join.

13 MS. HARDING: And also
14 object to the extent it calls for
15 speculation and a legal conclusion
16 as well.

17 A. My understanding is that
18 the named insureds would remain the same
19 as they currently are but that the rights
20 and interests in the policies themselves
21 are transferred to the PI Trust.

22 **Q. Who will be the owner of**
23 **the policies?**

24 MS. HARDING: Same

1 **Q. Why don't you tell me which**
2 **ones you're familiar with?**

3 A. There's an obligation to
4 provide notice to the insurer of a claim
5 or an event that gives rise to a claim, an
6 obligation to provide relevant
7 documentation in support of a claim under
8 a policy. Offhand, I can't think of any
9 other specific obligations.

10 **Q. Have you heard of the duty**
11 **to cooperate under the policy?**

12 MS. HARDING: Object to
13 form. It assumes facts not in
14 evidence. With respect to what
15 policy? There are hundreds of
16 different insurance policies.

17 MR. BROWN: Yes, there are,
18 and I'm asking him just about
19 general provisions in a general
20 liability policy.

21 **Q. Are you familiar with the**
22 **concept of the duty to cooperate on the**
23 **part of an insured under a general**
24 **liability insurance policy?**

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1 MS. HARDING: Again object
2 to form.

3 MR. LIESEMER: Join in that
4 objection.

5 MS. HARDING: And
6 foundation.

7 A. Yes.

8 **Q. Okay. Are you familiar**
9 **with the right to defend or to associate**
10 **in the defense of claims under a general**
11 **liability policy?**

12 MS. HARDING: Same
13 objection.

14 MR. LIESEMER: Object to
15 the form.

16 A. No, I'm not.

17 **Q. Let me ask you a**
18 **different -- to your knowledge, does Grace**
19 **have any duties to the insurers listed on**
20 **Schedule 1 of the transfer agreement?**

21 MS. HARDING: Object to the
22 form.

23 MR. LIESEMER: Object to
24 the form.

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1 A. Does Grace currently have
2 any duties? Is that the question?

3 **Q. Well, let's break it up.**
4 **Let's say: Did Grace pre-petition have**
5 **any duties to the insurers listed on**
6 **Schedule 1?**

7 MS. HARDING: Same
8 objection.

9 A. Whatever -- whatever duties
10 and obligations are spelled out in the
11 policy, yes.

12 **Q. Okay. If the Plan is**
13 **confirmed, what happens to those duties**
14 **and obligations?**

15 MR. LIESEMER: Object to
16 the form.

17 MS. HARDING: Same
18 objection. And I am going to
19 object, I think, to -- are you --
20 what particular -- are you talking
21 about any particular policy or with
22 respect to all of the policies
23 listed in the exhibit or -- object
24 to the form.

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1 MR. BROWN: Okay.

2 MS. HARDING: I don't see
3 how he could answer that question
4 with respect to all policies.

5 A. The duties and obligations
6 are still owed to the insurance companies
7 since the Plan is intended to be
8 insurance-neutral. I don't have an answer
9 as to specific duties in terms of whether
10 the PI Trust has a given duty and
11 obligation or whether that given duty or
12 obligation remains with a Grace entity. I
13 think it would depend on the nature of the
14 duty or obligation.

15 **Q. Okay. How about the duty**
16 **to cooperate in the defense of a claim?**

17 MS. HARDING: Same
18 objection as before.

19 MR. LIESEMER: Join.

20 **Q. Is that a duty that would**
21 **remain with the reorganized debtors or is**
22 **that a duty that would be assumed by the**
23 **Trust or both or something different?**

24 A. I don't -- I don't know the

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1 answer to that because I'm not aware of
2 any attempt or effort by either Grace or
3 the ACC or the FCR to try to parse out
4 specific duties, obligations, et cetera
5 under the policies since it is the intent
6 of the joint co-proponents that the Plan
7 and the transfer of insurance rights be
8 insurance-neutral aside from, you know,
9 the fact of the assignment that it has
10 not -- that no one -- none of the
11 co-proponents have felt it necessary to
12 engage in that effort.

13 **Q. Under the Joint Plan, is**
14 **the Asbestos PI Trust the successor to the**
15 **debtors with respect to asbestos-related**
16 **liabilities?**

17 MR. LIESEMER: Object to
18 form.

19 MS. HARDING: Object to
20 form.

21 MR. BROWN: Let me rephrase
22 that.

23 **Q. With respect to -- well,**
24 **back up.**

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1 **If a Plan is confirmed, will the**
 2 **Asbestos PI Trust become the successor to**
 3 **Grace's asbestos personal injury**
 4 **liabilities?**

5 MS. HARDING: Object to
 6 form.

7 MR. LIESEMER: Same
 8 objection.

9 A. The Asbestos PI Trust
 10 assumes Grace's asbestos PI liabilities.

11 **Q. Okay. Is it the successor?**
 12 **That is, is the Asbestos PI Trust the**
 13 **successor to Grace's liability insurance**
 14 **policies?**

15 MS. HARDING: Object.

16 **Q. Excuse me. The ones listed**
 17 **on Schedule 1 to the transfer agreement.**

18 MS. HARDING: Object to
 19 form.

20 MR. LIESEMER: Object to
 21 the form.

22 A. I'm not clear on the
 23 ramifications of referring to or
 1 identifying the PI Trust as a successor to

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1 (Exhibit 19 to Exhibit
 2 Book, Retained Causes of Action
 3 Schedule marked for identification
 4 as Exhibit Finke-5.)

5 **Q. Mr. Finke, if you can take**
 6 **a look at what's been marked as Finke**
 7 **Exhibit 5, my initial question to you is:**
 8 **Can you identify it?**

9 A. This is Exhibit 19 of the
 10 Exhibit Book. It's entitled Retained
 11 Causes of Action Schedule.

12 **Q. And what do you understand**
 13 **to be the purpose of this document?**

14 MS. HARDING: Object to
 15 form.

16 MR. LIESEMER: Join.

17 A. The purpose was to try to
 18 identify and thereby preserve any causes
 19 of action that -- either actual or
 20 potential causes of action that the
 21 reorganized debtors might have against any
 22 party.

23 **Q. Okay. If you turn to page**
 24 **10, you'll see it says at the top**

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1 Grace's insurance rights. There's -- they
 2 are the transferee. The Trust is the
 3 transferee of those insurance rights.

4 **Q. Okay. Is there any**
 5 **residual insurance rights that will be**
 6 **retained by the debtors with respect to**
 7 **the policies listed on Schedule 1 on the**
 8 **transfer agreement?**

9 MS. HARDING: Object to
 10 form.

11 MR. LIESEMER: Object to
 12 the form.

13 A. Not with respect to any
 14 actual or potential coverage for asbestos
 15 claims.

16 **Q. How about any type of**
 17 **coverage?**

18 A. I don't know. I think that
 19 may depend on the nature and terms of the
 20 policy.

1 MR. BROWN: Let's mark this
 22 document. The next document we're
 23 having marked as Finke-5 is Exhibit
 24 19 to the Exhibit Book.

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1 **"Retained Causes of Action (Insurance**
 2 **Claims)."**

3 A. Uh-huh.

4 **Q. And then there appear to be**
 5 **a number of different insurance companies**
 6 **that are listed with the addresses, and**
 7 **that goes on from page 10 to page 13.**

8 A. Uh-huh.

9 **Q. What retained causes of**
 10 **action will Grace have against the**
 11 **insurers listed here if the Joint Plan is**
 12 **confirmed?**

13 A. I don't know that they will
 14 have any.

15 **Q. You're not aware of any**
 16 **claims, sitting here today, against any of**
 17 **these insurers?**

18 MS. HARDING: To the extent
 19 that you know.

20 THE WITNESS: Yeah.

21 A. No, I'm not aware of any
 22 specific claims.

23 **Q. How about any general**
 24 **claims?**

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1 A. No, no, I'm not aware of
2 any general claims. I'm not aware of any
3 claims that I could identify with respect
4 to any given insurer.

5 MR. BROWN: Let's mark the
6 next exhibit, which will be the
7 Asbestos PI Trust agreement.

8 (Exhibit 2 to Exhibit Book,
9 Asbestos PI Trust Agreement marked
10 for identification as Exhibit
11 Finke-6.)

12 (Exhibit 4 to Exhibit Book,
13 Trust Distribution Procedures,
14 marked for identification as
15 Exhibit Finke-7.)

16 BY MR. BROWN:

17 **Q. Okay. Mr. Finke, you have**
18 **before you Exhibits 6 and 7. Exhibit 6 --**
19 **well, why don't you tell me if you can**
20 **identify both of those documents?**

21 A. Exhibit 6 is the Asbestos
22 PI Trust agreement. I should say the
23 proposed Asbestos PI Trust agreement that
1 is also known as Exhibit 2 to the Exhibit

1 to look at a specific provision of
2 the policy or...

3 MR. BROWN: I'm just asking
4 the question I asked.

5 A. I don't know the answer to
6 your question. I'm not that familiar with
7 the two agreements to know whether these
8 two documents set forth the role of the
9 asbestos insurers with respect to the
10 handling, settlement, resolution, payment,
11 et cetera of asbestos PI claims.

12 In general, the Plan includes the
13 asbestos insurance coverage that is
14 transferred to the Trust to be available
15 to either pay asbestos PI claims or
16 reimburse the PI Trust for its payment of
17 claims. Sitting here today, I just -- I
18 do not recall to what extent, if any,
19 these two documents contain provisions
20 that relate to that role.

21 **Q. Let me broaden the scope of**
22 **the question to not just these two**
23 **documents but the Plan or any of the Plan**
24 **documents. Would that change your**

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1 Book. Finke Exhibit 7 is the Trust
2 Distribution Procedures relevant to the
3 Asbestos PI Trust and also known as
4 Exhibit 4 to the Exhibit Book.

5 **Q. Okay. What role, if any,**
6 **do either of those two documents**
7 **contemplate for Grace's insurers in the**
8 **handling, resolution, settlement, defense**
9 **of asbestos claims asserted against or**
10 **submitted to the Trust?**

11 MS. HARDING: Object to the
12 form.

13 MR. LIESEMER: Object to
14 the form.

15 MS. HARDING: Could you
16 read back the question, please?

17 (The reporter reads the
18 pending question.)

19 MS. HARDING: Okay, and I
20 object to it as being overly broad
21 with respect to Grace's insurers
22 without reference to any particular
23 insurer or policy. And, Michael,
24 do you have -- are you asking him

1 answer?

2 MS. HARDING: Object to
3 form.

4 MR. LIESEMER: Join.

5 A. I thought I just answered
6 that question so maybe I don't understand
7 the question.

8 **Q. Well, my initial question**
9 **to you focused on the two documents, the**
10 **Trust agreement and the asbestos PI TDP.**
11 **I'm asking the question more broadly now.**

12 **If you look at the Plan -- at all**
13 **the Plan documents, do any of them**
14 **contemplate any role for Grace's insurers**
15 **in the handling, defense, resolution, of**
16 **any asbestos PI claim submitted to the**
17 **asbestos PI Trust for resolution?**

18 MS. HARDING: Object to
19 form. I think it's overly broad.

20 And by Plan, do you mean all of the
21 exhibits, including all of the
22 documents and policies listed in
23 exhibits?

24 MR. BROWN: I'm using the

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1 you now what has been marked as Exhibit 8
2 to this deposition and what is Exhibit 1
3 to the Exhibit Book. First question is:
4 Would you identify the document, please?

5 A. Yes. I think Exhibit 8 is
6 the First Amended Joint Plan of
7 Reorganization that was filed by Grace and
8 its co-proponents.

9 Q. Okay.

10 A. And the date is February --
11 date on the document is February 27,
12 2009.

13 Q. Okay. Have you reviewed
14 this document in its entirety?

15 A. Yes.

16 Q. How many times?

17 MS. HARDING: You mean in
18 its entirety how many times?

19 MR. BROWN: Well, let's
20 start-up with that question.

21 A. Interpreting review as
22 meaning a detailed word-for-word reading
23 of the entire document, I would say
24 once.

1 MS. HARDING: No, it's
2 not.

3 MR. BROWN: Okay. It's
4 just --

5 MS. HARDING: It's just an
6 objection that...

7 A. I'm sure that I do not
8 understand the annex or annexes that I
9 believe relate to tax issues.

10 MS. HARDING: I guess --
11 are you asking him in his personal
12 capacity?

13 MR. BROWN: I don't think
14 he's here in his personal capacity.
15 I think he's here in his capacity
16 as a designee for W.R. Grace or for
17 the debtors.

18 MS. HARDING: Okay. Are
19 you asking him if there's anybody
20 at W.R. Grace that has an
21 understanding of different
22 provisions of the Plan as lawyers
23 and --

24 MR. BROWN: I think he's

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1 Q. Okay. And how many times
2 have you partially reviewed the
3 document?

4 A. Many times.

5 Q. Okay. Do you understand
6 it?

7 A. I have an understanding of
8 it. I would not profess to have a
9 complete understanding of it.

10 Q. Okay. Are there particular
11 provisions in the Plan that you're quite
12 certain you don't understand?

13 MS. HARDING: Object to
14 form and relevance and concern that
15 we're not going to the seven
16 hours -- I mean, if you have a
17 specific question about a specific
18 provision that you don't understand
19 as an insured, then I think you
20 should ask him questions about
21 that. I think...

22 MR. BROWN: Is that an
23 instruction not to answer the
24 question?

1 here to testify about the operation
2 of the Plan. I think that was --
3 isn't he? So my question is
4 what --

5 MS. HARDING: He's here to
6 answer questions to help you
7 understand the Plan.

8 MR. BROWN: Barbara, can
9 we --

10 MS. HARDING: So I think if
11 there are questions that you don't
12 understand, I think you should ask
13 him those.

14 MR. BROWN: I would like to
15 know whether there are particular
16 provisions in the Plan that the
17 witness can identify that he is not
18 familiar with or that he doesn't
19 understand.

20 MS. HARDING: Well, I think
21 he's asked and answered, so...

22 A. Yes, for myself there are
23 provisions that I do not understand, such
24 as the tax annexes. This --

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1 MS. HARDING: Which also
2 were not designated 30(b)(6) topics
3 by any person who --

4 MR. BROWN: Can I ask that
5 we just let the witness answer the
6 question?

7 MS. HARDING: Well, I think
8 if you want to ask him questions
9 about topics that were designated
10 that you asked him to become
11 familiar with, then --

12 MR. BROWN: I didn't ask
13 him a question about the tax annex.
14 It was in his answer.

15 MS. HARDING: Well, that's
16 because you asked him about any
17 provision of the Plan. You
18 asked -- we tried to prepare the
19 witness to answer questions about
20 topics that everybody asked about.

21 MR. BROWN: All right.
22 I'll ask my question again. If you
23 have an objection and you want to
4 instruct him not to answer, then do

1 **your attention to page 87 of the Plan,**
2 **Section 7.15, and what I would like you to**
3 **do, because I have a series of questions**
4 **about it, is why don't you take a few**
5 **moments to review Section 7.15. In fact,**
6 **if you want to take a break at this**
7 **point --**

8 MR. BROWN: Does that make
9 sense? Okay.

10 MS. HARDING: Well, I mean,
11 how long is it, again?

12 THE WITNESS: Seven
13 pages.

14 MS. HARDING: Five-minute
15 break?

16 MR. BROWN: That's fine,
17 yes.

18 (Recess taken.)

19 BY MR. BROWN:

20 **Q. Mr. Finke, we had a short**
21 **break and before that I directed your**
22 **attention to Section 7.15 of the Plan**
23 **entitled Insurance Neutrality. Did you**
24 **have an opportunity to review that section**

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1 it and we'll move on.

2 BY MR. BROWN:

3 **Q. Mr. Finke, as you sit here**
4 **today looking at the Joint Plan, can you**
5 **identify particular provisions that you do**
6 **not understand?**

7 MS. HARDING: Object, asked
8 and answered, but answer one more
9 time if you'd like.

10 A. In addition to what I've
11 already identified, the provision on the
12 warrants is not entirely clear to me. And
13 if I spent the time to go through the
14 document page by page, there may be a few
15 other sections that I don't feel very
16 comfortable with in terms of the level of
17 my understanding.

18 Speaking on behalf of W.R. Grace as
19 a whole, there are individuals who
20 understand those sections and, taken as a
21 whole, I think W.R. Grace does have a good
22 understanding of the Plan.

23 **Q. Okay. Well, let me take**
24 **your counsel up on her offer and direct**

1 **during the break?**

2 A. Yes.

3 **Q. This was not one of the**
4 **sections that you mentioned in your prior**
5 **testimony that you were -- that you did**
6 **not understand. Is it safe to say that**
7 **this is a provision that you do**
8 **understand? And I'm asking that question,**
9 **really, in your capacity as an individual**
10 **and as the designee on this subject for**
11 **the debtors.**

12 MS. HARDING: Object to
13 form.

14 A. Yes, I believe I understand
15 it.

16 **Q. Okay. Can you turn to**
17 **Section 11.9 of the Plan, and that's**
18 **entitled Exculation, and if you'd take a**
19 **moment to review that section.**

20 (The witness reviews the document.)

21 A. Okay.

22 **Q. Given the language in**
23 **Section 7.15, am I correct that asbestos**
24 **insurance entities are not bound by the**

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exculpation provision in Section 11.9 of the Plan?

MR. LIESEMER: Object to the form.

MS. HARDING: Object to the form.

A. I believe they -- the asbestos insurance companies are bound by Section 11.9.

Q. They are bound?

A. Yes.

Q. If you go back to 7.15, where is that set forth?

MS. HARDING: Object to form.

MR. LIESEMER: Same objection.

A. Well, of course, there's no provision in Section 7.15 that specifically states that the insurers are bound by Section 11.9. I assume that's not what you're asking, but -- well, literally, I think that is what you asked, so --

It also calls for a legal conclusion.

(The witness reviews the document.)

A. Okay. I would direct you to Section 7.15(h) which states that "the asbestos insurance entities shall be subject to the releases and injunctions to the extent described in this Plan" so my answer to your question is that I believe any provisions in the Plan that would constitute a release or an injunction, and I would include 11.9 in that language, are binding on the asbestos insurance entities.

Q. So your testimony is that 7.15(h) includes through its language Section 11.9?

A. Yes, that is how I read it.

Q. What consideration, if any, are Grace's insureds getting under the Plan in exchange for the exculpation provision in 11.9?

MR. LIESEMER: Objection to

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Q. Yes, that is what I asked.

A. -- that's my answer then.

Q. So there's nothing in 7.15 that says that they're bound by 11.9 but your testimony is that they are in fact bound by 11.9?

A. Yes.

Q. Are there any other provisions in the Plan that are not specifically spelled out in Section 7.15 for which the insurers are bound notwithstanding Section 7.15?

MS. HARDING: Objection to form, and I think it misstates his testimony.

THE WITNESS: I'm sorry. Could you read back the question?

(The reporter reads the pending question.)

MS. HARDING: Object to form. I think it's confusing, speculative. I don't see how you can possibly answer that question. But if you can answer it, go ahead.

form.

MS. HARDING: Objection to form.

A. All right. First, your question assumes that the insurance entities would be entitled to some consideration in exchange for being bound by Section 11.9. I don't know that to be the case. I don't know that they're not entitled to it either.

But as far as consideration, if one had to justify being bound by Section 11.9 on the basis of consideration, I think the answer with respect to asbestos insurance entities would also apply to all parties involved in the Chapter 11, which is that the entities and individuals covered by the exculpation have been active in the business of these Chapter 11 cases, they have had to take positions, make arguments, make decisions, et cetera, that affect one or more parties involved in the Chapter 11 cases and have thereby exposed themselves to potential liability, I

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1 suppose, for their acts or omissions. And
 2 the Chapter 11 itself could not proceed to
 3 the point of resolution without the
 4 efforts of these entities and these
 5 individuals. So to the extent -- so there
 6 is a -- in order to encourage and
 7 facilitate the activities of the parties
 8 listed in Section 11.9, it is my
 9 understanding that it is common in these
 10 types of bankruptcies to provide
 11 exculpation of those entities and
 12 individuals for their activities, and I'm
 13 quoting here from 11.9, "In connection
 14 with or arising out of the Chapter 11
 15 cases." It is their participation and the
 16 fruits of their participation that would
 17 constitute consideration.

18 **Q. I want to circle back to a**
 19 **question that I asked a few questions ago**
 20 **concerning 7.15 and I asked you a question**
 21 **to the effect of other than what's**
 22 **specifically set forth in Section 7.15 are**
 23 **there any other provisions in the Plan or**
 24 **Plan documents that are binding upon**

1 A. I could spend the time to
 2 look for it if you'd like.

3 **Q. No, let's try this a little**
 4 **differently. Look at 7.15(a).**

5 A. Okay.

6 **Q. It says "Except to the**
 7 **extent provided in this Section 7.15,**
 8 **notwithstanding anything to the contrary**
 9 **in the Confirmation Order, the Plan or any**
 10 **of the Plan documents -- nothing in the**
 11 **Confirmation Order, the Plan or the Plan**
 12 **documents, including any other provision**
 13 **that purports to be preemptory or**
 14 **supervening, shall in any way operate to**
 15 **or have the effect of impairing any**
 16 **asbestos insurance entity's legal,**
 17 **equitable or contractual rights, if any,**
 18 **in any respect." Have I read that**
 19 **correctly?**

20 A. I believe so.

21 **Q. Okay. And what I'm asking**
 22 **is: Given that broad statement, are there**
 23 **any other provisions in the plan that are**
 24 **not set forth in 7.15 that override the**

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1 **Grace's insurers, and in answer to that**
 2 **question you referred me to subsection (h)**
 3 **and how 11.9 in the debtor's view was**
 4 **encompassed within the language of (h).**

5 **So I want to go back to that**
 6 **question and ask: Other than 11.9, is**
 7 **there anything else?**

8 A. I'm --

9 MS. HARDING: Object to
 10 form. I think it's confusing
 11 and I'll leave it at that. If you
 12 can answer, go ahead.

13 A. I believe there is a more
 14 general provision relating to the binding
 15 nature of court orders, findings, et
 16 cetera. That is what I was looking for
 17 initially in response to your answer and
 18 then I remembered the provision in 7.15(h)
 19 and so I've directed you to that
 20 provision. If you want me to spend the
 21 time -- I do not know where in that Plan
 22 that more general provision is that I have
 23 in mind.

24 **Q. Well --**

1 language in 7.15(a)?

2 MS. HARDING: Object to
 3 form.

4 A. Based on the language of
 5 7.15(a), and if I'm understanding it as it
 6 was intended, it states by its terms that
 7 nothing else in the Plan or any of the
 8 Plan documents would operate, you know, to
 9 impair the -- an asbestos insurance
 10 entity's rights.

11 **Q. So is your answer no?**

12 MS. HARDING: Object, asked
 13 and answered, but...

14 A. Based on the language in
 15 7.15(a), my answer would be no, subject
 16 to -- subject to wanting to review the
 17 remainder of the Plan because, as I
 18 mentioned, I do have in mind that there is
 19 one or more general provisions concerning
 20 the applicability or binding nature of
 21 court orders, court findings and the like.

22 And while I understand 7.15(a)
 23 appears to act in such a way that would
 24 make my proviso in my answer irrelevant, I

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1 would still feel more comfortable having
2 found and reviewed those other provisions
3 before giving an unequivocal "no".

4 **Q. Let's do this because we**
5 **don't want to waste time. Why don't we --**
6 **I'm going to continue on. We'll obviously**
7 **have breaks. And during one of those**
8 **breaks, why don't you look for whatever**
9 **provision it is that you -- or provisions**
10 **that you think you're talking about and**
11 **then when we return from our break, even**
12 **if I'm not the questioner, would you bring**
13 **those one or two sections up to me? That**
14 **will save us some time.**

15 A. That's fine.

16 **Q. All right. I want to focus**
17 **your attention now on 7.15(b).**

18 (The witness reviews the document.)

19 A. Okay.

20 **Q. You see on the second line**
21 **there rolling over to the third line the**
22 **phrase "The beneficiaries of the Asbestos**
23 **PI Trust"? Do you see that?**

1 A. Yes.

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1 **know that it is, per se, defined.**

2 MS. HARDING: Where is it
3 in the TDP?

4 MR. BROWN: It's in Section
5 5.13.

6 MR. COHN: Is that on page
7 49 of the TDP?

8 MR. BROWN: I don't know
9 the page number.

10 THE WITNESS: Page 49,
11 yes.

12 A. Based on Section 5.13 of
13 the TDP and on the basis that a holder of
14 an indemnified insured TDP claim
15 potentially may have that claim paid by
16 the PI Trust in accordance with Section
17 5.13, I would interpret such a holder to
18 be a beneficiary of the PI Trust.

19 **Q. Okay. So let's just take**
20 **one of my clients, for example. Let's**
21 **take Seaton Insurance Company. If Seaton**
22 **Insurance Company has an indemnified**
23 **insured TDP claim, then Seaton Insurance**
24 **Company, as I understand 7.15(b), is bound**

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1 **Q. What do you understand that**
2 **term to mean?**

3 MR. LIESEMER: Object to
4 the form.

5 **Q. What does that term mean?**

6 A. I understand it to mean
7 holders of asbestos PI claims.

8 **Q. Okay. And does that**
9 **include holders of indirect Asbestos PI**
10 **Trust claims?**

11 MR. LIESEMER: Object to
12 form.

13 A. Yes.

14 **Q. And does it include**
15 **indemnified insurer -- does it -- excuse**
16 **me.**

17 **Does that term include the holders**
18 **of indemnified insurer TDP claims?**

19 MR. LIESEMER: Object to
20 the form.

21 A. Is that a defined term?

22 **Q. Good question. It is a**
23 **term that appears in Section 5.13 of the**
24 **Trust Distribution Procedures. I don't**

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1 **by the Plan, the Plan documents and the**
2 **confirmation order?**

3 MR. LIESEMER: Object to
4 the form.

5 MS. HARDING: Object to the
6 form.

7 **Q. Do I have that correct?**

8 A. I believe so, yes.

9 **Q. Okay. And is it bound by**
10 **the Plan, Plan documents and confirmation**
11 **order insofar as it may also be listed as**
12 **being a partially settled insurer?**

13 MS. HARDING: Object to the
14 form. And are you referring to
15 7.15(b)?

16 MR. BROWN: Yes.

17 MS. HARDING: Back to
18 7.15(b) when you asked that
19 question?

20 MR. BROWN: Yes.

21 A. I'm not sure I see the
22 connection between Section 5.13 of the TDP
23 and your question, if there is any.
24 The -- I believe the answer is they are

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1 bound to the same extent any asbestos
2 insurance entity is bound under the
3 Plan.

4 **Q. Mr. Finke, you understand,**
5 **don't you, that -- well, let's not do it**
6 **that way. Let's go to -- I think it's the**
7 **asbestos insurance transfer agreement.**

8 MS. HARDING: Is that one
9 of our exhibits?

10 MR. BROWN: No, I'm sorry,
11 it's not that. It's Exhibit 5.

12 **Q. Do you have Exhibit 5?**

13 A. Retained causes of action?

14 **Q. No. This is Exhibit 5 to**
15 **the Exhibit Book.**

16 A. To the Exhibit Book.

17 MS. HARDING: I have a
18 copy. It's not his but you can
19 look at it if you'd like.

20 MR. COHN: What is the
21 document?

22 MS. BAER: It's Exhibit 5
23 to the Exhibit Book, Schedule of
24 Settled Asbestos Insurers.

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1 **there are indemnity claims against the**
2 **debtor and to the extent that those are**
3 **asbestos-related, those fit within the**
4 **defined term "indemnified insured TDP**
5 **claims", correct?**

6 MS. HARDING: Object to
7 form.

8 MR. LIESEMER: Join.

9 MS. HARDING: Are you
10 looking for 7.15?

11 MS. ALCABES: 5.13.

12 MS. HARDING: There you go.

13 A. No, I don't agree.

14 MR. BROWN: Could you read
15 back the last question?

16 (The reporter reads the
17 requested portion.)

18 A. No, I don't agree. My
19 understanding of Section 5.13 is this
20 provision would take effect only upon
21 confirmation of the Plan since the
22 definition indicates, or requires, that
23 the indemnified insurer TDP claim is
24 channeled to the PI Trust, which it can't

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1 (Exhibit 5 to Exhibit Book,
2 Schedule of Settled Asbestos
3 Insurers Entitled to 524(g)
4 Protection marked for
5 identification as Exhibit
6 Finke-9.)

7 **Q. What I'd like you, Mr.**
8 **Finke -- first of all, why don't you**
9 **identify what we've just marked as Exhibit**
10 **9?**

11 A. Okay. Finke Exhibit 9 is
12 Exhibit 5 to the Exhibit Book. It is
13 entitled Schedule of Settled Asbestos
14 Insurers Entitled to 524(g) Protection.

15 **Q. Now, you understand, don't**
16 **you, that at least some of the insurance**
17 **companies that are listed on this schedule**
18 **have indemnity claims against the**
19 **debtors?**

20 MR. LIESEMER: Object to
21 the form of the question.

22 A. Yes, I believe that's
23 correct.

24 **Q. And to the extent that**

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1 be at this point.

2 **Q. All these questions are in**
3 **the context of the Plan being confirmed.**

4 A. Well, then I don't --

5 **Q. Let me back up. I think**
6 **the record's kind of muddled at this**
7 **point.**

8 A. Okay.

9 **Q. Why don't you -- if you**
10 **look at the schedule of settled asbestos**
11 **insurance companies, I believe you'd**
12 **testified -- that's Exhibit 9 -- I believe**
13 **you'd testified that some of the companies**
14 **that are listed on there have contractual**
15 **indemnity claims against the debtors.**

16 A. That was under the
17 assumption we were talking about current
18 claims. I didn't realize you had -- that
19 your questions were all in the context of
20 the assumption of a confirmed plan.

21 **Q. All right. If you look at**
22 **the schedule, you understand that the**
23 **insureds that are listed on here have**
24 **settlement agreements with the debtors,**

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1 correct?

2 A. Yes.

3 Q. And you also understand
4 that certain of those settlement
5 agreements have contractual indemnity
6 provisions in them, correct?

7 A. Yes.

8 Q. And I believe you testified
9 that those contractual indemnity
10 provisions are under the Plan to be
11 treated as indemnified insured TDP claims
12 under Section 5.13 of the TDP. Is that
13 correct?

14 A. No, no, that certainly
15 wasn't my intent.

16 Q. Okay. How are they being
17 treated under the Plan?

18 A. As indirect PI Trust
19 claims.

20 Q. Okay. Do you understand
21 indemnified insured TDP claims to be a
22 class of indirect PI Trust claims?

23 A. It appears to me to be
24 that, that they are the same. Or at least

1 Q. Let's get back to the
2 insurance neutrality provision then, which
3 is 7.15.

4 A. Okay.

5 Q. Getting back to 7.15(b),
6 this line of questioning talked with or
7 started with the reference to the term,
8 the phrase, "the beneficiaries of the
9 Asbestos PI Trust".

10 A. Uh-huh.

11 Q. I'm a little confused by
12 your testimony at this point. If you are
13 the holder of an indemnified insurer TDP
14 claim post-confirmation, are you a
15 beneficiary of the Asbestos PI Trust?

16 MR. LIESEMER: Object to
17 the form of the question.

18 MS. HARDING: Object to
19 form.

20 A. Assuming for the sake of
21 argument such a claim could arise, my
22 understanding would be yes.

23 MR. BROWN: All right. I'm
24 going to shift gears. We'll mark

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1 I don't see a distinction. Whether they
2 are intended to be or not, I don't know.
3 Since we really were not involved in the
4 drafting of the TDP, my --

5 Q. The "we" you're referring
6 to is Grace?

7 A. Grace, yes. My bigger
8 problem is that once the plan is confirmed
9 I don't understand -- have not understood
10 and don't today how there can be such a
11 claim under 5.13 since my understanding of
12 the mechanics of the asbestos PI
13 channeling injunction is that any claim
14 against a settled insurer which is an
15 asbestos protected party would be barred
16 and that claim would be channeled to the
17 PI Trust and that that holder of that PI
18 claim, the sole resolution -- not
19 resolution -- the sole source for any
20 recovery for the holder of that claim is
21 the PI Trust.

22 So I have not understood, and still
23 don't, how any indemnified insurer TDP
24 claim could arise.

1 another document. The document I'm
2 about to mark is one of our
3 settlement agreements so we can
4 mark this portion of the deposition
5 subject to the protective order but
6 what I would like to do with this
7 one, like we did with Mr. Posner,
8 to the extent that no one objects
9 to the extent that we, my clients,
10 would like to use this portion of
11 the testimony without having it
12 under seal, we would be able to do
13 so without asking all parties to
14 agree. Is that fair?

15 MS. HARDING: That's up to
16 you.

17 MR. BROWN: All right.

18 MR. LEWIS: Did you say
19 Mr. Posner?

20 MR. BROWN: Yes.

21 MR. LEWIS: Okay.

22 (Settlement Agreement
23 Bates stamped OB 1 through 33
24 marked for identification as

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1 Exhibit Finke-10.)

2 MS. HARDING: And as I
3 understand it, all parties are -- I
4 think all parties in this room have
5 agreed to the protective order.

6 MR. BROWN: I don't know.
7 Is Mr. Speights on the line?

8 Mr. Speights?

9 MS. BAER: We can put on
10 the record that Mr. Speights never
11 objected to the provisions of the
12 protective order.

13 MR. BROWN: Okay.

14 **Q. Mr. Finke, you have before**
15 **you a document which has been marked**
16 **Finke-10 and I'd like you to take a few**
17 **moments to review it and then tell me**
18 **whether you have ever seen the document**
19 **before.**

20 A. No, I have not.

21 **Q. Okay. Can you turn to**
22 **pages 30 and 31?**

23 MR. LIESEMER: Are you
1 referring to the Bates numbering?

1 the document before.

2 A. Based on the --

3 MS. HARDING: To the extent
4 that you know.

5 THE WITNESS: Sorry.

6 A. Based on the signature
7 page, the parties are W.R. Grace & Co.,
8 W.R. Grace & Co.-Conn., Commercial Union
9 Insurance Company as successor in interest
10 to Employers Commercial Union Insurance
11 Company of America and Employers
12 Commercial Union Insurance Company and
13 American Employers Insurance Company.

14 **Q. Okay. And would you agree**
15 **with me that the parties that executed**
16 **this document appear, at least from what**
17 **is on the document, to have signed it in**
18 **or around May of 1993?**

19 A. Yes.

20 **Q. Okay. If you look at the**
21 **signature block for Mr. Beber, he's**
22 **indicated as having signed this document**
23 **on behalf of W.R. Grace & Co. Do you see**
24 **that?**

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1 MR. BROWN: Actually, it's
2 the same on these, on this
3 particular document, but OB 30 and
4 31.

5 **Q. Do you recognize any of the**
6 **signatures that appear on either of those**
7 **pages?**

8 MS. HARDING: You mean the
9 names of the people that have
10 signed or the actual signatures?

11 MR. BROWN: The latter.

12 A. The signature of Robert H.
13 Beber appears to be his signature, not --
14 I can't say that conclusively, but --

15 **Q. Do you recognize --**

16 A. -- it looks familiar.

17 **Q. Do you recognize the**
18 **signature of Mr. Posner?**

19 A. I don't.

20 **Q. Who are the parties to the**
1 **agreement?**

22 MS. HARDING: Object to
23 form and object to the extent that
24 he's testified that he's never seen

1 MS. HARDING: Which?

2 A. Yes.

3 MS. HARDING: Wait a
4 minute. What page? 30 or 31?

5 MR. BROWN: OB 30.

6 MS. HARDING: Right, I just
7 wanted to make it clear that he
8 appears to be in two different
9 places.

10 MR. BROWN: I'm focused on
11 the first signature on OB 30.

12 MS. HARDING: Page 30, all
13 right.

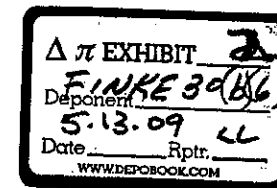
14 **Q. The company that was called**
15 **W.R. Grace & Company in May of 1993 has a**
16 **different name today, doesn't it?**

17 A. I believe that's correct.

18 **Q. Okay. And the name is**
19 **Fresenius Medical Care Holdings, Inc., is**
20 **it not?**

21 A. I don't know the answer off
22 the top of my head.

23 **Q. Okay. Let me direct you to**
24 **a few things in the Plan. I'd like you to**

WR Grace / Confirmation Hearing 30(b)(6) Deposition Notice

Witness Designations

Dep Notice Filed by	Topic of Deposition	Designated Witness
Anderson Memorial Hospital	The interpretation of the sales information attached to Anderson Memorial Hospital's ZAI Proof of Claim Form, including billing registers, and all information contained therein	Richard Finke
Travelers and Allstate	1. The treatment of the Travelers 1992 Agreement under the Revised Joint Plan	Richard Finke
	2. The treatment of the Travelers 1996 Agreement under the Revised Joint Plan	Richard Finke
	3. The treatment of the Allstate 1994 Agreement under the Revised Joint Plan	Richard Finke
	4. The treatment of the Allstate 1996 Agreement under the Revised Joint Plan	Richard Finke
	5. The provisions of the Revised Joint Plan that relate to Asbestos Insurance Settlement Agreements, including, without limitation, Sections 1.1(14), 1.1(16), 1.1(200), 7.7, 7.13, 7.15, 8.4.1, 9.1 and Exhibit 6 (Asbestos Insurance Transfer Agreement)	Richard Finke
	6. The provisions of the Revised Joint Plan that relate to Asbestos Insurance Reimbursement Agreements, including, without limitation, Sections 1.1(9), 1.1(16), 7.2.2(d)(iv), 7.7, 7.13, 7.15, 9.1 and Exhibit 6 (Asbestos Insurance Transfer Agreement)	Richard Finke
	7. The provision of the Revised Joint Plan that relate to Indirect PI Trust Claims, including, without limitation, Section 1.1(138) and Exhibit 4 (Trust Distribution Procedures)	Richard Finke
	<u>SUPPLEMENTAL NOTICE</u>	
	1. The provisions of the Revised Joint Plan that relate to Asbestos PD Claims and Indirect PD Trust Claims, including, without limitation, Sections 1.1(18), 1.1(137), 3.1.7, Exhibit 3 (Asbestos PD Trust Agreement), and Exhibit 25 (Class 7A CMO) Trust Distribution Procedures	Richard Finke
	2. The classification of Travelers as a Class 7A creditor and solicitation of Class 7A claims	Richard Finke

Dep Notice Filed by	Topic of Deposition	Designated Witness
	3. The treatment and/or payment, pursuant to the Revised Joint Plan, of claims for indemnification arising under the Travelers 1992 Agreement arising from Asbestos PD Claims	Richard Finke
	4. The treatment and/or payment, pursuant to the Revised Joint Plan, of claims for indemnification arising under the Travelers 1996 Agreement arising from Asbestos PD Claims	Richard Finke
OneBeacon, Seaton, GEICO, Columbia	A. Classification and treatment of Indirect PI Trust Claims, including "Indemnified Insurer TDP Claims" and "Insurance-Related TDP Claims" as those terms are used in Sections 5.13 and 5.12 respectively of the Asbestos PI Trust Distribution Procedures	Richard Finke
	B. Bases for the classification of certain contractual indemnity claims held by Settled Asbestos Insurance Companies as Class 6 Asbestos PI Claims	Richard Finke
	C. Bases for the classification and treatment of non-asbestos-related contractual indemnity claims held by Settled Asbestos Insurance Companies as Class 9 General Unsecured Claims	Richard Finke
	D. Scope and operation of the Asbestos PI Channeling Injunction	Richard Finke
	E. Scope and Operation of the Asbestos Insurance Entity Injunction and Successor Claim Injunction	Richard Finke
	F. Scope and operation of Section 7.15 of the Plan entitled, "Insurance Neutrality", and any other purported insurance neutrality provisions in the Plan or Plan Documents	Richard Finke
	G. Operation of the Asbestos PI Trust Agreement and Asbestos PI Trust Distribution Procedures	Jay Hughes
	H. Bases for Settled Asbestos Insurance Company designations appearing in Exhibit 5 to the Exhibit Book	Richard Finke
	I. Scope and bases for releases and exculpation provisions in the Plan	Richard Finke
	J. The scope, operation, and necessity of the findings of fact, conclusions of law, orders, and decrees	Richard Finke

Dep Notice Filed by	Topic of Deposition	Designated Witness
	set forth in Section 7.7 of the Plan	Richard Finke
	K. The impact of the Plan and Plan Documents on the claims asserted, threatened, or that may later be asserted by Scotts, BNSF, the Libby Claimants, and/or Kaneb against the Debtors and/or any Asbestos Insurance Entity	Richard Finke
	L. The criteria used to select the Asbestos PI Trustees and the Asbestos PI TAC	Richard Finke
	M. The business background, experience, and qualifications of the individuals selected to be the Asbestos PI Trustees and the members of the Asbestos PI TAC	Richard Finke
	N. The respective powers and authority conferred upon the Asbestos PI Trustees, Asbestos PI TAC, and the Asbestos PI FCR under the Plan and Plan Documents including, but not limited to , the Asbestos PI Trust Agreement, Asbestos PI Trust Distribution Procedures, and the Asbestos Insurance Transfer Agreement	Richard Finke
	O. The respective roles of the Asbestos PI Trustees, Asbestos PI TAC, and the Asbestos PI FCR in the evaluation, handling, defense and settlement/resolution of Asbestos PI Claims under the Plan and Plan Documents	Richard Finke
	P. the role, if any, of the Asbestos Insurance Entities in the evaluation, handling, defense and settlement/resolution of Asbestos PI Claims under the Plan and Plan Documents	Richard Finke
	Q. The scope of the Asbestos Insurance Rights that are to be transferred or assigned to the Asbestos PI Trust pursuant to the Asbestos Insurance Transfer Agreement, and any other Plan Documents	Richard Finke
	R. The impact of the Plan and Plan Documents on the respective rights and duties of the Debtors and Asbestos Insurance Entities under the Asbestos Insurance Policies	Richard Finke
	S. The impact of the Plan and Plan Documents on subsequent coverage litigation between the Asbestos PI Trust (or the Debtors) and Asbestos Insurance Entities including, but not limited to, Non-	Richard Finke

Dep Notice Filed by	Topic of Deposition	Designated Witness
	<p>Settled Asbestos Insurance Companies</p> <p>T. The nature and value of the Asbestos PI Trust Assets to be used to fund the Asbestos PI Trust</p> <p>U. The Plan's compliance with Section 524(g) of the Bankruptcy Code, as well as other applicable provisions of the Bankruptcy Code</p>	<p>Hudson La Force</p> <p>Richard Finke</p>
Fireman's Fund Insurance Co. (<i>re Surety Bond Issues</i>)	<p>1. The classification and treatment of the Proofs of Claim under the Plan (including, to the extent applicable, the TDPs)</p> <p>2. The classification and treatment of the Supersedeas Bond Claim under the Plan (including, to the extent applicable, the TDPs)</p> <p>3. The extent to which the claims asserted in the Proofs of Claim are "Pre-Petition Liquidated Claims" subject to treatment under § 5.2 of the TDPs</p> <p>4. The extent to which the Supersedeas Bond Claim is "Pre-Petition Liquidated Claim"</p> <p>5. The actual, expected, and/or intended effect of excluding Indirect PI Trust Claims that are Pre-Petition Liquidated Claims from § 5.6 of the TDPs</p> <p>6. The meaning and operation of § 5.2 of the TDPs in respect of Pre-Petition Liquidated Claims</p> <p>7. The meaning of the phrase "provided there is no supersedeas bond associated with such verdict or judgment..." in § 5.2(a)(ii) of the TDPs, as well as how this phrase works in relation to § 5.2(b) of the TDPs</p> <p>8. The extent to which the Supersedeas Bond Claim is an Indirect PI Trust Claim, a Class 6 Claim, or a Class 9 Claim</p> <p>9. Debtors' contentions, if any, regarding whether FFIC may setoff any obligations it may owe to Grace under liability insurance policies issued or allegedly issued by FFIC to W.R. Grace & Co., et</p>	<p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p>

Dep Notice Filed by	Topic of Deposition	Designated Witness
	al., against Grace's obligations to FFIC under the Special Surety Indemnification Agreement, and the bases for any such contentions	
	10. Debtors' pre-petition payment or funding for the payment of Asbestos Claims, such as judgments, settlements, and litigation costs, from sources other than liability insurance	Jay Hughes
	11. The actual, expected, and/or intended impact, if any, of Plan Confirmation on the Special Surety Indemnification Agreement, the Supersedeas Bond, and the Supersedeas Bond Claim, including whether or not Reorganized Debtors will retain the Debtors' obligations under the Special Surety Indemnification Agreement and who, if not Reorganized Debtors, will succeed to or assume such obligations	Richard Finke
	12. The actual, expected, and/or intended impact, if any, of Plan Confirmation on <u>W.R. Grace & Co. v. Aaron Clifton Edwards, et al.</u> , No. 06-00-00112-CV (Tex. App., 6th Appellate Dist.), and the claims asserted in the Proofs of Claim	Jay Hughes
Fireman's Fund Insurance Co. and Allianz	1. The drafting, negotiation, scope and operation of the Plan, the Asbestos PI Trust Agreement and the Asbestos PI Trust Distribution Procedures, including efforts to (i) involve Asbestos Insurance Entities in the negotiation and/or drafting of the Plan, the Asbestos PI Trust Distribution Procedures, or the Asbestos PI Trust Agreement, or (ii) obtain the consent of the Asbestos Insurance Entities to the Plan, the Asbestos PI Trust Distribution Procedures, and the Asbestos PI Trust Agreement	Richard Finke
	2. The scope and operation of the Asbestos Insurance Entity Injunction and Successor Claims Injunction	Richard Finke
	3. The scope and operation of the Asbestos PI Channeling Injunction, including but not limited to, the effect of the Asbestos PI Channeling Injunction on claims against Settled Asbestos Insurance Companies	Richard Finke
	4. The bases for designating an Asbestos Insurance Entity as a Settled Asbestos Insurance Company	Richard Finke
	5. The selection, qualification, and experience of the proposed Asbestos PI Trustees and the proposed	Richard Finke

Dep Notice Filed by	Topic of Deposition	Designated Witness
	<p>Asbestos PI Trust Advisory Committee members</p> <p>6. Compensation or other financial arrangements between or among any of the proposed Asbestos PI Trustees, Asbestos PI Trust Advisory Committee members or members of the Asbestos PI Committee in respect of the negotiation, drafting or contemplated operation of the Asbestos PI Trust</p> <p>7. The value of the Warrants</p> <p>8. The meaning and operation of Section 7.15 of the Plan, including the interaction of Section 7.15 with Sections 8.1.1, 7.13, 7.7(uu), and 7.7(tt) and the Asbestos Insurance Transfer Agreement</p> <p>9. The meaning of the phrase "any defense that the Plan or any of the Plan Documents do not comply with the Bankruptcy Code" in Section 1.1(16) (definition of "Asbestos Insurer Coverage Defenses")</p> <p>10. The impact, if any, of Plan Confirmation on Non-Settled Asbestos Insurance Companies, including:</p> <ul style="list-style-type: none"> a) Whether and to what extent the Reorganized Debtors retain the Debtors' obligations under Asbestos Insurance Policies; b) Whether the Asbestos PI Trust assumes the obligations of the Debtors under the Asbestos Insurance Policies; c) The application of the exculpation provision of Section 11.9 of the Plan; d) Whether the Plan will act as a settlement or judgment that will immediately trigger a payment obligation under the Asbestos Insurance Policies issued by the Non-Settled Asbestos Insurance Companies; e) Whether the Non-Settled Asbestos Insurance Companies' indemnity obligations will be triggered due to the establishment of the Asbestos PI Trust and transfer of assets to the Trust; f) Whether the Non-Settled Asbestos Insurance Companies' indemnity obligations for any Asbestos PI Claim will accrue or be triggered prior to the payment of an Asbestos PI Claim by Asbestos PI Trust; g) Whether and how the Plan and Plan Documents can be used in subsequent Asbestos Insurance Actions or other proceedings by the Asbestos PI Trust or the Debtors against Non-Settled Asbestos 	<p>Richard Finke</p> <p>Hudson La Force</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p>

Dep Notice Filed by	Topic of Deposition	Designated Witness
	<p>Insurance Companies;</p> <p>h) The role, if any, the Non-Settled Asbestos Insurance Companies will have in the evaluation, defense, allowance, or settlement of Asbestos PI Claims channeled to or submitted to the Asbestos PI Trust;</p> <p>i) Whether, and to what extent, the Non-Settled Asbestos Insurance Companies will be responsible for paying all or part of any Asbestos PI Claim resolved by the Asbestos PI Trust pursuant to the Asbestos PI Trust Distribution Procedures or for indemnifying the Asbestos PI Trust for any payment it makes on account of Asbestos PI Claims</p> <p>11. The Debtors' duties and obligations with respect to any Asbestos Insurance Policies upon the transfer of the Asbestos Insurance Rights to the Asbestos PI Trust</p> <p>12. The meaning and scope of the definition of Indirect PI Trust Claims, including whether, and to what extent, claims by Asbestos Insurance Entities for indemnification and/or contribution from Debtors for claims asserted against them, such as, by illustration, the Libby Claimants, or The Scotts Company, LLC, or BNSF Railway Company (or its predecessors)</p> <p>13. The treatment of Indirect PI Trust Claims by the Plan and the Plan Documents</p> <p>14. The basis for classification and treatment of an Asbestos Insurance Entity's Asbestos Claims against the Debtors for indemnification arising from contract or otherwise as Class 6 Asbestos PI Claims</p>	<p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p>
Maryland Casualty Co, Zurich Insurance Co., and Zurich International	<p>1. The scope of protection provided to Settled Asbestos Insurance Companies by the Asbestos PI Channeling Injunction and the scope of Debtors' indemnity obligations under the respective Asbestos Insurance Settlement Agreements</p> <p>2. The viability of the Plan if the Court upholds any objections to the application of the Asbestos PI Channeling Injunction to one or more of the Settled Asbestos Insurance Companies</p> <p>3. The Plan's treatment of any Settled Asbestos Insurance Companies who are found by the Court to have discrete, unsettled coverage under an otherwise settled policy</p>	<p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p>

Dep Notice Filed by	Topic of Deposition	Designated Witness
	4. The intended scope of Debtors' indemnity obligations under the MCC Settlement Agreements	Richard Finke
	5. The Plan Proponents' position that Settled Asbestos Insurance Companies are not creditors	Richard Finke
	6. The impact of the Plan and Plan Documents on the claims asserted, threatened, or that may later be asserted by Scotts, BNSF, and/or the Libby Claimants, against the Debtors and/or any Asbestos Insurance Entity	Richard Finke
	7. The bases for the classification of certain indemnity claims arising from contract or otherwise, against the Debtors held by Settled Asbestos Insurance Companies as Class 6 Asbestos PI Claims	Richard Finke
	8. The classification and treatment under the Plan of Asbestos Insurance Entities' claims against the Debtors for indemnification arising from contract or otherwise which are not Indirect PI Trust Claims	Richard Finke
	9. The scope and operation of the Asbestos PI Channeling Injunction, including but not limited to, the effect of the Asbestos PI Channeling Injunction on claims against Settled Asbestos Insurance Companies	Richard Finke
	10. The Plan's compliance with section 524(g) of the Bankruptcy Code	Richard Finke
	11. The meaning and scope of the indirect PI Trust Claims, including whether, and to what extent, claims by Asbestos Insurance Entities for indemnification and contribution deriving from claims against them, such as those by the Libby Claimants, Scotts, BNSF are Indirect PI Trust Claims	Richard Finke
	12. The treatment of Indirect PI Trust Claims under the Plan, the Asbestos PI Trust Distribution Procedures, and the other Plan Documents, including but not limited to, the treatment of an Asbestos Insurance Entity's claims against the Debtors for indemnification arising from a pre-bankruptcy petition settlement agreement	Richard Finke
	13. The scope of Section 524(g) of the Bankruptcy Code on claims against Settled Asbestos Insurance	Richard Finke

Dep Notice Filed by	Topic of Deposition	Designated Witness
	<p>Companies</p> <p>14. The scope and operation of the Asbestos Insurance Entity Injunction and Successor Claims Injunction</p> <p>15. The meaning of the phrase "any defense that the Plan or any of the Plan Documents do not comply with the Bankruptcy Code" in Section 1.1(16)(definition of "Asbestos Insurer Coverage Defenses")</p> <p>16. The meaning and operation of the insurer neutrality provision of Section 7.15 of the Plan, including the interaction of Section 7.15 of the Plan with Sections 8.1.1, 7.13, 7.7(uu), and 7.7(tt) of the Plan and the Asbestos Insurance Transfer Agreement</p> <p>17. The Plan's treatment of Asbestos Insurance Reimbursement Agreements</p>	<p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p>
Libby Claimants	<p><u>Plan</u></p> <p>1. Development of Plan among plan proponents, including negotiations, other discussions between or within the plan proponents, and preparation of documents, including drafts.</p> <p>2. Funding of the Asbestos PI Trust, including value at time of negotiation of assets to be used to fund the Asbestos PI Trust.</p> <p>3. Current value of assets to be used to fund the Asbestos PI Trust.</p> <p>4. Projected value at scheduled Confirmation Hearing of assets to be used to fund the Asbestos PI Trust.</p> <p><u>Asbestos PI Trust</u></p> <p>1. Development of the TDP, including negotiations, other discussions between or within the plan proponents, and preparation of documents, including drafts.</p>	<p>Richard Finke</p> <p>Hudson La Force</p> <p>Hudson La Force</p> <p>Hudson La Force</p> <p>Jay Hughes</p>

Dep Notice Filed by	Topic of Deposition	Designated Witness
	2. TDP's in other cases used as models, points of reference or in any other way utilized in the development of the TDP ("Other TDPs").	Jay Hughes
	3. Liquidation of claims under Other TDPs.	Jay Hughes
	4. Process by which the Asbestos PI Trust will liquidate claims.	Jay Hughes
	5. Disease categories under the TDP.	Jay Hughes
	6. The "Severe Pleural" disease category under the TDP.	Jay Hughes
	7. Provisions of the TDP concerning "Extraordinary Claims."	Jay Hughes
	<u>Injunctions</u>	
	1. The Asbestos PI Channeling Injunction.	Richard Finke
	2. Development of Asbestos PI channeling Injunction among plan proponents, including negotiations, other discussions between or within the plan proponents, and preparation of documents, including drafts.	Richard Finke
	3. Injunctions in other cases similar to the Asbestos PI Channeling Injunction used as models, points of reference or in any other way utilized in the development of the Asbestos PI Channeling Injunction ("Other Channeling Injunctions").	Richard Finke
	4. Litigation concerning scope of Other Channeling Injunctions.	Richard Finke
	5. Scope and operation of the Asbestos PI Channeling Injunction, including the effect, if any, on actions by Libby Claimants against parties other than the Debtors, including but not limited to BNSF, the State of Montana and Maryland Casualty Company, for their own allegedly tortious conduct ("Libby Claimants' Independent Actions").	Richard Finke
	6. Necessity of, or benefit to plan proponents or Asbestos PI Trust from, the Asbestos PI Channeling	Richard Finke

Dep Notice Filed by	Topic of Deposition	Designated Witness
	<p>Injunction (including consideration supplied to any of the plan proponents by those protected by the Asbestos PI Channeling Injunction).</p> <p>7. The Asbestos Insurance Entity Injunction.</p> <p>8. Development of Asbestos Insurance Entity Injunction among plan proponents, including negotiations, other discussions between or within the plan proponents, and preparation of documents, including drafts.</p> <p>9. Injunctions in other cases similar to the Asbestos Insurance Entity Injunction used as models, points of reference or in any other way utilized in the development of the Asbestos Insurance Entity Injunction ("Other Insurance Entity Injunctions").</p> <p>10. Litigation concerning scope of Other Insurance Entity Injunctions.</p> <p>11. Scope and operation of the Asbestos Insurance Entity Injunction, including the effect, if any, on Libby Claimants' Independent Actions.</p> <p>12. Necessity of, or benefit to plan proponents or Asbestos PI Trust from, the Asbestos Insurance Entity Injunction (including consideration supplied to any of the plan proponents by those protected by the Asbestos Insurance Entity Injunction).</p> <p>13. The Successor Claims Injunction.</p> <p>14. Development of Successor Claims Injunction among plan proponents, including negotiations, other discussions between or within the plan proponents, and preparation of documents, including drafts.</p> <p>15. Injunctions in other cases similar to the Successor Claims Injunction used as models, points of reference or in any other way utilized in the development of the Successor Claim Injunction ("Other Successor Claims Injunctions").</p>	<p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p>

Dep Notice Filed by	Topic of Deposition	Designated Witness
	16. Litigation concerning scope of Other Successor Claims Injunctions.	Richard Finke
	17. Scope and operation of the Successor Claims Injunction, including the effect, if any, on Libby Claimants' Independent Actions.	Richard Finke
	18. Necessity of, or benefit to plan proponents or Asbestos PI Trust from, the Successor Claims Injunction (including consideration supplied to any of the plan proponents by those protected by the Successor Claims Injunction).	Richard Finke
	19. Release and exculpation provisions of the Plan (the "Releases and Exculpations").	Richard Finke
	20. Development of The Releases and Exculpations among plan proponents, including negotiations, other discussions between or within the plan proponents, and preparation of documents, including drafts.	Richard Finke
	21. Injunctions in other cases similar to the Releases and Exculpations used as models, points of reference or in any other way utilized in the development of the Releases and Exculpations ("Other Releases and Exculpations").	Richard Finke
	22. Litigation concerning scope of Other Releases and Exculpations.	Richard Finke
	23. Scope and operation of the Releases and Exculpations, including the effect, if any, on Libby Claimants' Independent Actions.	Richard Finke
	24. Necessity of, or benefit to plan proponents or Asbestos PI Trust from, the Releases and Exculpations (including consideration supplied to any of the plan proponents by those protected by the Releases and Exculpations).	Richard Finke
	25. The plan's compliance with Section 524(g) of the Bankruptcy Code. <u>Liquidation Analysis</u>	Richard Finke

Dep Notice Filed by	Topic of Deposition	Designated Witness
	1. Liquidation analysis contained in Exhibit Book as Exhibit 8 (the "Liquidation Analysis")	Hudson La Force
	2. Development of Liquidation Analysis among plan proponents, including negotiations, other discussions between or within the plan proponents, and preparation of documents.	Hudson La Force
	3. Projections, assumptions, calculations and sources of information utilized in preparing Liquidation Analysis.	Hudson La Force
	4. Any changes in, or changes in the validity of, any such projections, assumptions, calculations and sources of information, through the present date.	Hudson La Force
	<u>Claims History</u>	
	1. Grace claims history concerning Asbestos PI Claims.	Jay Hughes
	2. Grace's settlement practices and verdict history for Asbestos PI Claims.	Jay Hughes
	3. Grace's settlement practices and verdict history for punitive damage claims.	Jay Hughes
	4. Grace's settlement practices and verdict history for wrongful death claims.	Jay Hughes
	5. Grace's settlement practices and verdict history for claims resulting from exposure to Grace's asbestos in Lincoln County, Montana.	Jay Hughes
	6. Grace's settlement practices and verdict history for claims resulting from exposure outside of Lincoln County, Montana, to Grace's asbestos originating in Lincoln County, Montana.	Jay Hughes
	<u>Rights of BNSF</u>	
	1. Claims of Burlington Northern Santa Fe Railroad and affiliates ("BNSF") against the Debtors.	Jay Hughes
	2. Proofs of claim filed by BNSF.	Jay Hughes

Dep Notice Filed by	Topic of Deposition	Designated Witness
	3. Any rights of indemnification by BNSF against the Debtors, and any agreements pertaining thereto.	Jay Hughes
	4. Any rights of contribution by BNSF against the Debtors.	Jay Hughes
	5. Any insurance covering BNSF for Libby Claimants' Independent Actions against BNSF.	Jay Hughes
	<u>Rights of the State of Montana</u>	
	1. Claims of the State of Montana against the Debtors.	Jay Hughes
	2. Proofs of claim filed by the State of Montana.	Jay Hughes
	3. Any rights of indemnification by the State of Montana against the Debtors, and any agreements pertaining thereto.	Jay Hughes
	4. Any rights of contribution by the State of Montana against the Debtors.	Jay Hughes
	5. Any insurance covering the State of Montana for Libby Claimants' Independent Actions against the State of Montana.	Jay Hughes
	<u>Rights of Maryland Casualty Company</u>	
	1. Claims of the Maryland Casualty Company, including affiliates ("MCC") against the Debtors.	Jay Hughes
	2. Proofs of claim filed by MCC.	Jay Hughes
	3. Any rights of indemnification by MCC against the Debtors, and any agreements pertaining thereto.	Jay Hughes
	4. Any rights of contribution by MCC against the Debtors.	Jay Hughes
	5. Any insurance covering MCC for Libby Claimants' Independent Actions against MCC.	Jay Hughes

Dep Notice Filed by	Topic of Deposition	Designated Witness
	<p><u>Insurance</u></p> <ol style="list-style-type: none"> 1. Grace's insurance policies (whether owned by Grace or purchased for another entity), coverage issues and settlements with insurers. 2. Grace's insurance coverage for products/completed operations, including terms thereof, aggregate caps, and defenses to and limitations on such coverage. 3. Projected value of the Asbestos Insurance Rights constituting products/completed operations coverage. 4. Projected aggregate liquidated amount of the Asbestos PI Claims (including future claims) covered by products/completed operations insurance. 5. Grace's insurance coverage for premises/non-completed operations, including terms thereof, aggregate caps, and defenses to and limitations on such coverage. 6. Projected value of the Asbestos Insurance Rights constituting premises/non-completed operations coverage. 7. Projected aggregate liquidated amount of the Asbestos PI Claims (including future claims) covered by premises/non-completed operations insurance. 8. Settlements with Grace insurers. 9. Bases for designation under the Plan of certain Asbestos Insurance Entities as Settled Asbestos Insurance Companies. 	<p>Jay Hughes</p> <p>Jay Hughes</p> <p>Jay Hughes</p> <p>Jay Hughes</p> <p>Jay Hughes</p> <p>Jay Hughes</p> <p>Jay Hughes</p> <p>Jay Hughes</p> <p>Richard Finke</p>
CNA	<ol style="list-style-type: none"> 1. The meaning and operation of the insurer neutrality provision of Section 7.15 of the Plan, including the interaction of Section 7.15 of the Plan with Sections 8.1.1, 7.13, 7.7(uu), and 7.7(tt) of the Plan and the Asbestos Insurance Transfer Agreement. 2. The treatment of Indirect PI Trust Claims under the Plan, the Asbestos PI Trust Distribution Procedures, and the other Plan Documents, including but not limited to, the treatment of an Asbestos 	<p>Richard Finke</p> <p>Richard Finke</p>

Dep Notice Filed by	Topic of Deposition	Designated Witness
	Insurance Entity's claims against the Debtors for indemnification arising from a pre-bankruptcy petition settlement agreement.	
	3. The meaning and scope of Indirect PI Trust Claims, including whether, and to what extent, claims by Asbestos Insurance Entities for indemnification and contribution deriving from claims against them, such as those by the Libby Claimants, Scotts, and BNSF, are Indirect PI Trust Claims.	Richard Finke
	4. The basis for classification and treatment of an Asbestos Insurance Entity's Asbestos Claims against the Debtors for indemnification arising from contract or otherwise as Class 6 Asbestos PI Claims.	Richard Finke
	5. The classification and treatment under the Plan of Asbestos Insurance Entities' claims against the Debtors for indemnification arising from contract or otherwise which are not Indirect PI Trust Claims.	Richard Finke
	6. The scope and operation of the Asbestos PI Channeling Injunction, including but not limited to, the effect of the Asbestos PI Channeling Injunction on claims against Settled Asbestos Insurance Companies.	Richard Finke
	7. The scope and operation of the Asbestos Insurance Entity Injunction and Successor Claims Injunction.	Richard Finke
	8. The meaning of the phrase "any defense that the Plan or any of the Plan Documents do not comply with the Bankruptcy Code" in Section 1.1(16) (definition of "Asbestos Insurer Coverage Defenses")	Richard Finke
	9. The drafting, negotiation, scope and operation of the Asbestos PI Trust Agreement and the Asbestos PI Trust Distribution Procedures, including efforts to obtain the consent of the Asbestos Insurance Entities to the Plan, the Asbestos PI Trust Distribution Procedures, and the Asbestos PI Trust Agreement, or to involve them in drafting the Asbestos PI Trust Agreement.	Richard Finke
	10. The selection, qualification, and experience of the Asbestos PI Trustees and Asbestos PI Trust Advisory Committee members.	Richard Finke

Dep Notice Filed by	Topic of Deposition	Designated Witness
	11. Any compensation or other financial arrangements between each Asbestos PI Trustee and any Asbestos PI Trust Advisory Committee member or member of the Asbestos Claimants Committee on the one hand, and the Asbestos PI Trust.	Richard Finke
	12. The bases for designating an Asbestos Insurance Entity as a Settled Asbestos Insurance Company.	Richard Finke
	13. The Plan's treatment of Asbestos Insurance Reimbursement Agreements.	Richard Finke
	14. The valuation of the Warrants, including, but not limited to, the use of any valuation model or similar valuation tool.	Hudson La Force
	<p>15. The impact, if any, of Plan Confirmation on Non-Settled Asbestos Insurance Companies, including:</p> <ul style="list-style-type: none"> a. Whether and to what extent the Reorganized Debtors retain the Debtors' obligations under Asbestos Insurance Policies; b. Whether the Asbestos PI Trust assumes the obligations of the Debtors under the Asbestos Insurance Policies; c. The application of the exculpation provision of Section 11.9 of the Plan; d. Whether the Plan will act as a settlement or judgment that will immediately trigger a payment obligation under the Asbestos Insurance Policies issued by the Non-Settled Asbestos Insurance Companies; e. Whether the Non-Settled Asbestos Insurance Companies' indemnity obligations will be triggered due to the establishment of the Asbestos PI Trust and transfer of assets to the Trust; f. Whether the Non-Settled Asbestos Insurance Companies' indemnity obligations for any Asbestos PI Claim will accrue or be triggered prior to the payment of an Asbestos PI Claim by Asbestos PI Trust; g. Whether and how the Plan and Plan Documents can be used in subsequent Asbestos Insurance Actions or other proceedings by the Asbestos PI Trust or the Debtors against Non-Settled Asbestos Insurance Companies; h. The role, if any, the Non-Settled Asbestos Insurance Companies will have in the evaluation, defense, allowance, or settlement of Asbestos PI Claims channeled to or submitted to the Asbestos PI 	Richard Finke

Dep Notice Filed by	Topic of Deposition	Designated Witness
	<p>Trust;</p> <p>i. Whether, and to what extent, the Non-Settled Asbestos Insurance Companies will be responsible for paying all or part of any Asbestos PI Claim resolved by the Asbestos PI Trust pursuant to the Asbestos PI Trust Distribution Procedures or for indemnifying the Asbestos PI Trust for any payment it makes on account of Asbestos PI Claims.</p> <p>16. The Debtors' duties and obligations with respect to any Asbestos Insurance Policies upon the transfer of the Asbestos Insurance Rights to the Asbestos PI Trust.</p> <p>17. The treatment of workers compensation obligations as unimpaired, general unsecured claims that are to be liquidated and paid in full.</p>	<p>Richard Finke</p> <p>Richard Finke</p>
London Market Companies	<p>1. The treatment of the London Market Companies 1995 Agreement under the Revised Joint Plan.</p> <p>2. The treatment of the London Market Companies 1996 Agreement under the Revised Joint Plan.</p> <p>3. The provisions of the Revised Joint Plan that relate to Asbestos Insurance Reimbursement Agreements, including, without limitation, Sections 1.1(9), 1.1(16), 7.2.2(d)(iv), 7.7, 7.13, 7.15, 9.1 and Exhibit 6 (Asbestos Insurance Transfer Agreement).</p> <p>4. The provisions of the Revised Joint Plan that relate to Indirect PI Trust Claims, including, without limitation, Sections 1.1(138) and Exhibit 4 (Trust Distribution Procedures).</p>	<p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p> <p>Richard Finke</p>

W R GRACE & CO NEW

Filing Date: 04/06/08

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 8-K

CURRENT REPORT PURSUANT

TO SECTION 13 OR 15(D) OF THE

SECURITIES EXCHANGE ACT OF 1934

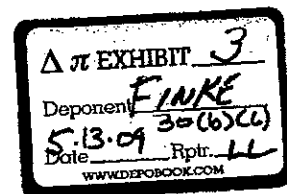
Date of report (Date of earliest event reported) April 6, 2008

W. R. GRACE & CO.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

(State or Other Jurisdiction of Incorporation)



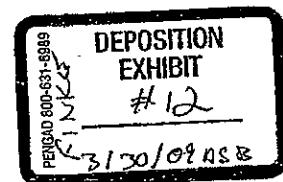
(Commission File Number)
7500 Grace Drive

1-13953

(IRS Employer Identification No.)
65-0773649
21044

Columbia, Maryland
(Address of Principal Executive Offices) (Zip Code)

(410) 531-4000



W R GRACE & CO NEW

Filing Date: 04/06/08

CURRENT REPORT

Item 7.01. Regulation FD Disclosure.

On April 6, 2008, W. R. Grace & Co., on behalf of itself and its subsidiaries and affiliates that are debtors in the Chapter 11 cases, (the "Company") entered into an agreement in principle (the "Agreement") with the Official Committee of Asbestos Personal Injury Claimants, the Future Claimants Representative and the Official Committee of Equity Security Holders, all parties-in-interest in the Company's Chapter 11 case, that would settle all present and future asbestos-related personal injury claims against the Company on the terms and conditions set forth therein. Certain terms and conditions of the Agreement are described in the press release attached hereto as Exhibit 99.1. The description of the terms and conditions of the Agreement is qualified in its entirety by reference to the provisions of the Agreement attached hereto as Exhibit 99.2.

The information furnished pursuant to this Item 7.01, including Exhibit 99.1 and Exhibit 99.2, shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, (the "Exchange Act"), or otherwise subject to the liabilities of such section, nor shall such information be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such a filing.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

99.1 Press Release

99.2 Term Sheet for Resolution of Asbestos Personal Injury Claims dated as of April 6, 2008

W R GRACE & CO NEW

Filing Date: 04/06/08

Exhibit 99.1

Grace News #2919

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GRACE ANNOUNCES SETTLEMENT OF ASBESTOS PERSONAL INJURY CLAIMS

COLUMBIA, Maryland, April 7, 2008 -- W. R. Grace & Co. (NYSE: GRA) today announced an agreement in principle that would settle all present and future asbestos-related personal injury claims. The agreement, reached with the Official Committee of Asbestos Personal Injury Claimants, the Future Claimants Representative and the Official Committee of Equity Security Holders, requires the following assets to be paid into a trust to be established under Section 524(g) of the United States Bankruptcy Code:

Cash in the amount of \$250 million;

Warrants to acquire 10 million shares of Grace common stock at an exercise price of \$17.00 per share, expiring one year from the effective date of a plan of reorganization;

Rights to proceeds under Grace's asbestos-related insurance coverage;

The value of cash and stock under the litigation settlement agreements with Sealed Air Corporation and Fresenius Medical Care Holdings, Inc.; and

W R GRACE & CO NEW

Filing Date: 04/06/08

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This announcement contains forward-looking statements, that is, information related to future, not past, events. Such information generally includes the words "believes," "plans," "intends," "targets," "will," "expects," "anticipates," "continues" or similar expressions. For these statements, Grace claims the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995. Grace is subject to risks and uncertainties that could cause actual results to differ materially from those projected in the forward-looking statements or that could cause other forward-looking information to prove incorrect. Factors that could cause actual results to materially differ from those contained in the forward-looking statements include: Grace's bankruptcy, plans of reorganization proposed by Grace and others, Grace's legal proceedings (especially the Montana criminal proceeding and environmental proceedings), the cost and availability of raw materials and energy, Grace's unfunded pension liabilities, costs of environmental compliance, risks related to foreign operations, especially, security, regulation and currency risks and those factors set forth in Grace's most recent Annual Report on Form 10-K, quarterly report on Form 10-Q and current reports on Form 8-K, which have been filed with the Securities and Exchange Commission and are readily available on the Internet at www.sec.gov. Reported results should not be considered as an indication of future performance. Readers are cautioned not to place undue reliance on forward-looking statements, which speak only as of the date thereof. Grace undertakes no obligation to publicly release any revisions to the forward-looking statements contained in this announcement, or to update them to reflect events or circumstances occurring after the date of this announcement.

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Corporate Communications

W. R. Grace & Co.-Conn.

7500 Grace Drive

Columbia, MD 21044

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under coverage in place agreements or installment payment arrangements where payment has not yet occurred;

iv. Assignment of and the right to recover on all outstanding insurance policies potentially applicable to personal injury claimants; and

v. The right to recover from all insolvent insurance estates as to which Grace or its affiliates has made a claim and the proceeds of all payments received by Grace or its affiliates from those insolvent estates after the date hereof, and all interest accrued thereon.

Provided however that Grace is in the process of examining its policies and the foregoing will not affect Grace's separate coverages, if any, for losses not arising from asbestos personal injury claims.

The ACC and FCR (or, after the Effective Date, the Asbestos PI Trust) shall control (and Grace shall cooperate in connection with) any negotiations or legal proceedings related to the underlying policies or settlement agreements applicable to Asbestos PI Claims.

c. Warrant: a warrant for 10 million shares of W. R. Grace & Co. ("Parent") common stock, exercisable at \$17 per share, and expiring one year after the Effective Date.

d. Cryovac, Inc. Payment: The consideration contemplated by the Sealed Air Settlement Agreement.

e. Fresenius Medical Care Payment: The proceeds of the payment contemplated by the Fresenius Settlement Agreement.

2. Deferred Payment Obligations: Grace shall make additional payments to the Asbestos PI Trust over a 15 year period as follows: five annual payments of \$110 million commencing on January 2, 2019; and 10 annual payments of \$100 million commencing on January 2, 2024. Such payment obligations shall be subordinate to any bank debt or bonds outstanding and shall be guaranteed by Parent or any successor ultimate parent entity of Grace. Such guaranty shall be secured by an obligation of Parent to issue to the Asbestos PI Trust, in the event an additional payment is not made, the number of shares of Parent common stock which, when

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added to the number of shares of common stock issued and outstanding as of the Effective Date, shall constitute 50.1% of the voting shares of Parent as of the Effective Date (such number of shares shall be equitably adjusted for stock splits, stock dividends, recapitalizations, corporate reorganizations or changes in control of Parent after the Effective Date).

B. Other Classes

1. Administrative Claims: 100% of allowed amount in cash.
2. Priority Tax Claims: 100% of allowed amount in cash.
3. Priority Non-Tax Claims: 100% of allowed amount in cash.
4. Secured Claims: 100% of allowed amount either in cash or by reinstatement.
5. Unsecured Employee Claims (post-retirement health and special pension): 100% of allowed amount by reinstatement.
6. Workers Compensation Claims: 100% by reinstatement.
7. Allowed General Unsecured Claims: 100% of allowed amount plus

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Parent and Grace, the ACC, the FCR and the Equity Committee, and shall be binding upon the parties and each of their respective successors and assigns to the fullest extent permitted by applicable law. The parties shall use their best efforts to incorporate the terms of this Term Sheet into a mutually agreeable plan of reorganization to be filed with the Bankruptcy Court as soon as possible.

V. Confidentiality.

The parties shall treat all negotiations regarding this Term Sheet as confidential. Neither the contents nor the existence of this Term Sheet shall be disclosed by any party, either orally or in writing, except to its directors, officers, employees, legal counsel, financial advisors, accountants and clients on a confidential basis until the Debtors have issued a press release announcing the terms and conditions contained herein. Notwithstanding the foregoing, the parties agree that this Term Sheet or the terms of this Term Sheet may be disclosed to the Official Committee of Unsecured Creditors and the Official Committee of Asbestos Property Damage Claimants. Grace will provide counsel to the ACC and counsel to the FCR an opportunity to review and comment on any press release relating to this Term Sheet prior to its issuance.

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AGREED TO AND ACCEPTED BY:

Dated: April 6, 2008

THE DEBTORS:

W. R. GRACE & CO., on behalf of itself and its subsidiaries and affiliates that are Debtors in the Chapter 11 cases

By: /s/ Fred Festa
 Name: Fred Festa
 Title: Chairman, President and Chief Executive Officer

THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS

By: /s/ R. Ted Weschler
 Name: R. Ted Weschler
 Title: Chair of the Committee

THE OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY CLAIMANTS:

CAPLIN & DRYSDALE, CHARTERED, on behalf of and in its capacity as counsel to the ACC

By: /s/ Elihu Inselbuch
 Name: Elihu Inselbuch

THE FUTURE CLAIMANTS REPRESENTATIVE:

ORRICK, HERRINGTON & SUTCLIFFE LLP, on behalf of and in its capacity as counsel to the FCR

By: /s/ Roger Frankel
 Name: Roger Frankel

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